

☆ ☆ ☆ **AMTRAK REFORM COUNCIL** ☆ ☆ ☆

The Council

Gilbert E. Carmichael
Chairman

Paul M. Weyrich
Vice Chairman

Bruce Chapman

Wendell Cox

Christopher K. Gleason

S. Lee Kling

Clarence V. Monin

Hon. John O. Norquist

Hon. Rodney Slater

Donald R. Sweitzer

Joseph Vranich

EXECUTIVE
DIRECTOR

Thomas A. Till

FOR THE CONGRESS OF THE UNITED STATES

For Release on Delivery

January 24, 2000

**A PRELIMINARY
ASSESSMENT OF AMTRAK**

**THE FIRST ANNUAL REPORT
of the
AMTRAK REFORM COUNCIL**

This year's report does not reach any conclusions or make recommendations about Amtrak's long-term future. It provides a picture of the Amtrak organization as it exists today, it presents our perspective on Amtrak's performance to this juncture, and it raises questions and issues that the Council believes should be addressed in its future efforts and, ultimately, by the Congress."

Amtrak Reform Council

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☆
The ARC is an independent federal commission established under the
Amtrak Reform and Accountability Act of 1997 (P. L. 105-134)

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The Honorable Albert Gore, Jr.
President of the U.S. Senate
United States Senate
Washington, D.C. 20510

The Honorable J. Dennis Hastert
Speaker of the U.S. House of
Representatives
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. President:

Dear Mr. Speaker:

The Amtrak Reform Council, an independent Federal commission established under the Amtrak Reform and Accountability Act (ARAA) of 1997, herewith transmits to the Congress its annual report for 1999.

The Council understands that improving Amtrak and rail passenger service in America is the principal aim of the Amtrak Reform and Accountability Act. Accordingly, improving Amtrak's rail passenger service is the principal focus of the Council's efforts.

This report represents the Council's endeavor to fulfil its statutory reporting requirements set forth in the ARAA, which are described in Section I of the report, but also to lay the groundwork for the Public Policy Development the Council believes will be necessary if rail passenger service is indeed to be improved and expanded.

To this end, this first report includes a succinct description of: (i) Amtrak's legal framework and its operating functions; (ii) an analysis of Amtrak's financial performance and a discussion of the criteria that the ARAA prescribes for measuring that performance; (iii) the concerns and issues that the Council's work has raised; and (iv) a preview of the tasks the Council plans to complete in the calendar year 2000.

This year's report does not reach any conclusions or make recommendations about Amtrak's long-term future. It provides a picture of the Amtrak organization as it exists today, it presents our perspective on Amtrak's performance to this juncture, and it raises questions and issues that the Council believes should be addressed in its future efforts and, ultimately, by the Congress.

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The Council's 11 members comprise a diverse body and, not surprisingly, its members often hold a wide range of views. With respect to this report, the following members voted to approve the report: Messrs. Carmichael, Chapman, Cox, Gleason, Kling, Norquist, Vranich, and Weyrich. Mr. Weyrich's approval, however, is subject to the reservation that he objects to the removal of the section of the report that provided a perspective on labor-management relations.

Administrator Molitoris and Messrs. Monin and Sweitzer voted to disapprove the report. The dissenting views of Ms. Molitoris and Mr. Monin may be found in Appendix I. Mayor Norquist's approval is accompanied by a concurring view on the future funding needs of rail passenger service, which is presented in Appendix J.

The Council members approving the report believe this first report is a positive contribution to the dialogue about the Amtrak organization and the future of intercity rail passenger service in America. We commend it to your attention, and stand ready to answer any questions or concerns that the Congress might have.

FOR THE AMTRAK REFORM COUNCIL

Very truly yours,

Gilbert E. Carmichael
Chairman

Enclosure: The First Annual Report of the Amtrak Reform Council

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EXECUTIVE SUMMARY

A Prefatory Note

In 1997, the Congress enacted, and the President signed into law, the Amtrak Reform and Accountability Act of 1997 (the ARAA), reform legislation requiring, that Amtrak operate, without “Federal operating grant funds” by the end of FY2002 (i.e., after September 30, 2002). The Congress also established the Amtrak Reform Council (the Council) a bi-partisan oversight body, charged with, among other tasks, monitoring Amtrak’s progress in improving its financial performance to achieve the goals of the ARAA.

The Council’s other principal tasks include: (i) reporting to Congress annually; (ii) evaluating Amtrak’s performance and making recommendations to Amtrak for improvement; (iii) recommending to Congress changes in the law believed necessary or appropriate; and (iv), should the Council find, on or before the end of FY2002, that Amtrak will not meet the financial goals of the Act, developing an action plan to restructure and rationalize the national system of intercity rail passenger services and submitting the plan to the President and the Congress within 90 days of any such finding.

The principal criteria and work guidelines the Council is using are: (i) Amtrak’s institutional framework and organization must be well structured; (ii) Amtrak must conduct its core business with efficiency; (iii) Amtrak’s financial operations must be transparent, that is, the financial performance and condition of each of Amtrak’s business units must be clearly reported and readily understandable; and (iv) Amtrak’s management and Board must be accountable for their actions.

The Council wishes to make clear to all readers, especially the Congress, that this is a statutorily-required annual report, and, as such, it is not in any sense a finding, nor does it address the issue of a finding by the Council. Were the Council to make a finding at some future date, such a finding would be the subject of a separate report.

Summary of the Report

Amtrak Today. During a decade when the American economy and most of its transportation system have expanded in an unprecedented manner, Amtrak’s ridership has remained virtually unchanged. Amtrak’s financial losses led the Congress to enact the ARAA in an attempt to reform the corporation. Amtrak’s legal and regulatory framework, as amended by the ARAA, prescribes, among other things, that Amtrak:

- Over the five fiscal years from FY1998 through FY2002, wean itself from the need for federal grant funding to cover its “operating losses”;
- Should no longer have a legal monopoly over intercity passenger rail service, though Amtrak retains special statutory access to the track network system of the private railroads at incremental cost and with operating priority;
- Has complete authority to determine its national system of routes and services in response to the marketplace; and
- Is no longer subject to specific statutory provisions governing its agreements with its employees concerning labor protection and contracting out; the disposition of these issues is now to be determined at the labor-management bargaining table.

Under this legal framework, Amtrak, performs an exceptionally broad range of complex functions. Amtrak is:

An Intercity Rail Passenger Transportation Operator (Amtrak's Core Business) -

- As its core business, Amtrak is an intercity rail transportation operating company, that moves passengers, mail and express throughout the Continental U.S.; and
- Integral to its core business, it manages equipment assets, including approximately 345 locomotives and 1,962 cars;

An Infrastructure Company for the Northeast Corridor –

- An infrastructure operations company, as established by statute, principally for most of the Northeast Corridor's (NEC) complex set of tracks, bridges, tunnels, stations, signals, and communications between Washington, DC, and Boston, MA;
- An engineering company, responsible for maintaining and improving most of the NEC's infrastructure;
- A telecommunications and signaling (process control) company;

A Rail Equipment Manufacturing, Maintenance, and Repair Company –

- that participates in the manufacture, re-manufacture, maintenance, and repair of locomotives and passenger coaches;

A Contractor or Potential Contractor –

- to domestic rail commuter agencies;
- to foreign rail passenger agencies (Amtrak bid on such a contract in Australia);

A Real Estate Development Company –

- for the stations and other real estate that it owns;

An Entity That Functions in Certain Respects As If It Were a Federal Agency –

- dealing independently with the Office of Management and Budget and the Congress on annual levels of federal appropriations;
- contributing to federal policymaking, along with the Congress and the Executive Branch, for the nation's intercity rail passenger system;
- at times functioning as if it were a grant-in-aid agency, dispensing funds to states and localities for projects that, while generally contributing to the development of intercity rail passenger service, may not have any beneficial effect on Amtrak's financial performance; and
- operating as a federally-chartered corporation, with a Board nominated by the President and confirmed by the Senate, and with no input from its common stockholders.

To fund Amtrak, the Congress has appropriated since 1971 more than \$23 billion, an average of about \$790 million per year. Amtrak's funding has actually been provided in a very erratic fashion, and with significant political influence over how and where it spends its money, making it difficult for Amtrak to plan effectively, and, on a system-wide basis, to implement the most beneficial major capital expenditures.

Measuring and Monitoring Amtrak's Financial Performance. There are two approaches to monitoring Amtrak's financial performance: (i) financial statements prepared under generally accepted accounting principles (GAAP), which the Council believes that ARAA prescribes, and which measure the financial performance of for-profit

corporations (which Amtrak – under the law – was established to be); and (ii) Amtrak’s test for operating self-sufficiency. Amtrak believes that federal legislation and historical practices in place in FY97 result in an implied test of operating self-sufficiency that excludes certain items that are included in GAAP financial statements. These differences are summarized below.

Amtrak's Interpretation of the Appropriate Measurement Test of Operating Self-Sufficiency					Assuming Full GAAP Accounting FY2002
	FY 1999	FY2000	FY2001	FY2002	
Revenues	1,866	2,184	2,396	2,501	2,501
Expenses	(2,796)	(3,092)	(3,215)	(3,253)	(3,253)
Operating Profit/(Loss)	(930)	(908)	(819)	(752)	(752)
Progressive Equipment Overhauls	76	77	78	80	
Depreciation/Noncash Expenses	370	469	499	487	
Budget Gap	(484)	(362)	(242)	(185)	(752)
Excess Mandatory Railroad Retirement Taxes	166	172	179	185	185
Test For Self Sufficiency	(318)	(190)	(63)	0	(567)

Amtrak's Financial Performance in 1999. The preliminary financial results for FY1999 (ended September 30, 1999) are \$8 million better than projected in Amtrak’s 1998 Strategic Business Plan. But this positive variance is more than fully attributable to higher than projected net earnings from Commuter, Reimbursable and Commercial activities, which were \$19.6 million ahead of the projections, due to renegotiated contracts for easements, flagging costs to contractors on the NEC, and increased charges to state and local governments and commuter authorities. Amtrak’s core business of providing intercity rail passenger service actually performed marginally worse than anticipated in the FY1999 Plan. Amtrak needs to achieve step-level improvements in operating and financial performance during the two key years of FY2000 and FY2001 to meet its Plan goal by the end of FY2002. Amtrak projects approximately \$125 million of improvements in both FY2000 and FY2001 due primarily to the introduction of the new Acela Express Service. The Council cannot determine the impact of the Acela delay until it receives additional information from Amtrak, including Amtrak’s Strategic Business Plan for FY2000 to FY2004, which Amtrak has not yet released.

Risks And Opportunities Amtrak Faces in Achieving Operating Self-Sufficiency. As in any endeavor, Amtrak’s planning, and its implementation of its plans, involve certain risks and opportunities:

Risks faced by Amtrak include: (i) revenue shortfalls, primarily in Amtrak’s Intercity operations; (ii) schedule delays, or lengthening, due to freight railroad congestion; (iii) NEC revenue shortfalls due to delayed introduction of Acela trainsets and potential resistance to the fare premium anticipated for Acela Express trains over other NEC Amtrak trains; (iv) the possible difficulties with continuing to increase the financial support received from states and commuter agencies; (v) possible increases in airline competition,

particularly in the NEC; and (vi) political interference with its network, operations and funding.

Opportunities available to Amtrak include: (i) improving capital productivity through programs to repair equipment faster and keep fewer spares; (ii) increasing revenue-generating capacity by selectively increasing density of seating in certain equipment types, possibly creating additional train sets; (iii) earning higher revenues through better yield management practices; (iv) earning higher revenues from additional profitable Mail & Express business; and (v) earning revenues from higher ridership due to increasing traffic congestion and air traffic control delays in select, short, high-density corridors.

Statutorily Assigned Tasks. The ARAA charges the Council with three specific tasks on which it is to report each year:

1. *Amtrak's Use of Taxpayer Relief Act of 1997 (TRA) Funds:* Because Amtrak had executed more than 81,000 financial transactions from its TRA account, conducting a thorough assessment of Amtrak's use of TRA funds was beyond the resources available to the Council. The Congress, therefore, assigned a review of Amtrak's use of TRA funds through June 30, 1999, to the General Accounting Office (GAO), which is scheduled to issue its report in February 2000. While the Council will await the GAO's analysis before making its final evaluation, from data available at this point, the Council is concerned that Amtrak has not used a significant portion of the funds for the kinds of high-priority, high-return investments that will help its bottom line.¹
2. *Productivity Improvement:* Section 203 (h) of the ARAA specifically charges the Council with monitoring and evaluating Amtrak's management efficiency and its progress in achieving labor productivity improvements. Accordingly, the Council requested that Amtrak provide certain information. Amtrak and the Council are working together to define additional productivity data requirements and to agree on acceptable methodologies both for measuring cost savings achieved through work-rule changes and for monitoring general labor productivity. Agreement is essential if the Council is to be able to meet statutory reporting requirements of the ARAA.
3. *Recommendations for Closures or Realignments of Amtrak's Routes or Services:* Amtrak's management commissioned a new analytical and network planning tool, called the Market-Based Network Analysis (MBNA). Though the Council has

¹ Other issues related to Amtrak's ongoing financial operations include its use of TRA funds and its investment planning. Based on preliminary information, significant amounts of the TRA funds are being borrowed temporarily for maintenance expenditures rather than being immediately invested by Amtrak in high priority, high return capital projects necessary to achieve the improvements in financial performance initially anticipated when Section 977 of the TRA was enacted. If these temporary loans are not repaid, such expenditures for maintenance (which are permitted under the TRA) will likely result in the need for increased capital investment funding by the federal government and others in the future. In addition, Amtrak has not produced a long-term capital expenditure plan for several years. The Council, the Congress, and other governmental agencies need Amtrak's long-term capital expenditure plan to carry out their statutory obligations.

received information about the capabilities of the MBNA methodology, the products of the analysis that Amtrak has conducted using the MBNA methodology have not yet been made available to the Council.

Recommendations for Improvement that the Council has forwarded to Amtrak: The ARAA requires the Council to evaluate Amtrak's operations and to make recommendations for improvement to the corporation. In November 1999, the Council recommended that Amtrak's Board consider:

1. Conditional upon receiving confirmation from Amtrak of the profitability of **Mail & Express (M/E)** traffic: (i) augmenting Amtrak's M/E staff; (ii) adding M/E equipment to its fleet; and (iii) setting up the M/E business as a separate strategic business unit for planning and financial reporting purposes, with transparent accounting of its revenues and expenses.
2. Setting up the operations of the **NEC fixed plant as a profit center** within the NEC Business Unit, with its own clear and accurate income statement, balance sheet, and capital plan. The NEC fixed plant, which is critical to the successful operation of the Acela Express service, requires substantial sums, as much as \$5-7 billion according to the Department of Transportation, to fund deferred maintenance and delayed capital expenditures.
3. As part of its normal annual strategic business planning processes, identifying risks of not achieving, along with opportunities to exceed, its business plan objectives, and **develop contingency plans for corrective actions** that would be approved by its management and Board within its overall business plan.
4. Implementing a **program for annual cost savings from reductions** in Amtrak's corporate overhead, bench-marking the size of Amtrak's corporate overhead compared to its overall business volume. Lowering costs would assist Amtrak in retaining and expanding its net revenues from commuter and subsidized intercity passenger business.
5. Identifying annually in its Strategic Business Plan readily measurable, **minimum business plan objectives**, including service objectives, operating objectives and financial objectives, and reporting and comparing its actual performance against its minimum business plan objectives.

Issues and Next Steps. This report highlights concerns and issues for the Congress concerning Amtrak. Looking at such issues now will foster public discussion and debate, allowing time for more coherent public policy development if the Congress determines that changes are needed. This section also describes the Council's expected activities in the coming year.

Issues. Intercity rail passenger service, in our country's longest sustained period of economic expansion, is not growing. Amtrak in 1998 carried about the same number of passengers that it did in 1990, and its service levels have essentially remained static during

this period. If intercity rail passenger service is to thrive, what steps might be taken? The following issues should be thoroughly examined:

- Is Amtrak's institutional structure adequate, based on Amtrak's performance and lessons learned from structural models used in other industries or other countries?
- Given the long-term concerns about the adequacy and transparency of Amtrak's financial disclosure and reporting, including long-term capital planning, are there steps that should be taken to improve the clarity of Amtrak's financial reporting?
- Regarding passenger service's quality and its responsiveness to the marketplace, does Amtrak's effective monopoly over passenger service promote delivery of high-quality, efficient, and economical service? If not, how could competition be introduced into the provision of rail passenger services? If competition is not introduced, what is the implication for public funding requirements?
- In the funding context, has funding for operating and capital needs been adequate? If not, by how much, for how long, and for what purposes has it been inadequate, and for what purposes should Congress provide additional funds? Should the future funding be for just capital investments, or will operating subsidies also be required? What means will ensure that future funding mechanisms incorporate transparency and accountability? And to what extent should future funding mechanisms promote competition in the provision of rail passenger services?

Next Steps. The milestones for calendar year 2000, as of the date of this report, are listed below, though the dates are subject to change:

January	The Council submits its first annual report
February	GAO releases report on Amtrak's use of TRA funds
May	GAO releases report on Amtrak's capital needs and cost control
June-July	DOT's Office of Inspector General releases its analysis of Amtrak's MBNA Process and new Strategic Business Plan
December	Preparation of the Council's second annual report

Over the coming year, the Council will further examine such key issues as: (i) changes in institutional structure that might improve the quality, economy, and efficiency of intercity rail passenger services in the US; (ii) Amtrak's capital structure including issues pertaining to its stock and the US Government's mortgage lien on the NEC; (iii) potential improvements in the structure for providing financing for the federal investment in Amtrak and intercity rail passenger service; (iv) options for implementing the provisions of existing law that permit the introduction of competition into the provision of intercity rail passenger service; (v) possible improvements in Amtrak's financial reporting requirements, to include its train operations, the NEC fixed plant, and its Mail and Express service; and (vi) measures to improve the productivity of Amtrak's assets, employees, and use of energy and materials.

The Council's Remarks Regarding Amtrak's Comments on the Council's Annual Report

A Note from the Council on the Process the Council Used to Ensure that Amtrak Had Sufficient Opportunity to Comment on the Council's Report

Following this page, the Council has inserted Amtrak's eight-page commentary on major issues that the Corporation has identified with the Report. The opening paragraph of the commentary could be read to indicate that Amtrak did not receive a copy of the report until January 19, less than 24 hours before Amtrak was due to provide comments to the Council for inclusion in the report. To the extent that this passage gives the impression that this was the first time that Amtrak had seen the report, it is misleading. In fact, Amtrak first received a copy of the report, virtually identical in structure and substance, on Monday, January 10, 2000. Since that time, the Council staff has, in separate meetings on January 12th, 13th, and 19th, and in daily contact by telephone, worked with Amtrak both to incorporate comments that clarified facts or omissions and to reach accommodation on other matters where issues of tone or substance existed. In addition, on Friday, January 14, the Council's Chairman Gil Carmichael participated in a 90-minute conference call with Amtrak Board Chairman (Wisconsin Governor) Tommy Thompson and Amtrak Board Member (Meridian, Mississippi Mayor) John Robert Smith to discuss the issues in the report, resulting in a four-page letter from Messrs. Thompson and Smith to Mr. Carmichael setting forth Amtrak's views on major issues. The updated version of the report that the Council provided to Amtrak on January 19, to which it refers in its commentary, contained no substantive differences from previous versions, other than the incorporation of many of Amtrak's suggested clarifications of facts and language. Indeed, the Council's staff solicited and accepted from Amtrak two full pages of additional comments on the January 19th draft prior to the Council's receipt of the comments that follow.

As a further indication of its willingness to reach agreement wherever possible on issues that Amtrak raised with the report, the Council postponed the printing of the document by three business days to permit Amtrak further opportunity for review, discussion, and comment.

AMTRAK'S COMMENTS ON ARC'S FIRST ANNUAL REPORT

Amtrak appreciates the opportunity to review and comment on the Reform Council's first annual report to Congress. As you know, we have profound differences on a number of fundamental issues cited in the report. However, since we were provided with a final draft report (without appendices) less than 24 hours before publication, which was still under revision and have never seen the final report, we must characterize our comments as preliminary, and will provide a more definitive, final statement predicated on a more careful review of the final report and appendices.

The Amtrak Reform Council (ARC) is just one of the many entities or agencies that have reviewed Amtrak's performance during the past few years. In fact, since 1995, there have been nearly twenty oversight hearings of Amtrak by five different committees of Congress, nearly a dozen reviews conducted by the General Accounting Office, two reports by the Department of Transportation's Office of the Inspector General, a report of Amtrak's capital and operating procedures by the House Appropriations Investigations staff, and a wide-ranging report conducted by the Congressionally appointed Blue Ribbon Panel. These reviews are in addition to the semi-annual report submitted by Amtrak's independent Inspector General to the Congress. As has been the case with each of these organizations or committees of Congress, we have cooperated with the ARC, dedicating staff, time, and materials for study. It is our hope that we can continue to work cooperatively with the Council during the coming year. Amtrak's specific concerns with the report include the following:

- Amtrak Operating Self-Sufficiency
- Generally Accepted Accounting Principles
- Labor Productivity Issues
- Negative Financial Impact of Misleading Statements

Amtrak Operating Self-Sufficiency

It is clear that there exists a fundamental misunderstanding about basic financial concepts related to Amtrak's business.

- Generally Accepted Accounting Principles (GAAP) is not the legislatively required measurement for Amtrak's operational self-sufficiency.
- Amtrak will continue to fund progressive overhauls with capital grants, as it has with explicit congressional consent since 1993.

Amtrak's Comments

- Depreciation is a non-cash expenditure, and as such, is not funded as part of a federal operating contribution.

The threshold question is what did Congress intend when it enacted the operating self-sufficiency test as part of the ARAA in 1997. Did it intend that Amtrak must cease its then current practice of many years' standing of funding progressive overhauls of equipment from capital grants? Did Congress which passed the ARAA really intend to change what prior Congresses had approved? Did the Congress that passed the ARAA really require that Amtrak begin in 2003 to recover its non-cash cost of depreciation of assets, thus reversing the practice dating back to Amtrak's inception of excluding depreciation from operating grants? The answers to these questions seem obvious to Amtrak. Amtrak will measure operating self-sufficiency by excluding the expenditures for progressive overhauls and depreciation because neither was funded with operating grants in 1997 or in any previous year, and there is no support in the legislative history to justify a change.

At the start of the 105th Congress in 1997, Senator Hutchison, Chairwoman of the Surface Transportation Subcommittee of the Commerce Committee, described her position as follows:

I would like to say that we do have the issue before us of how much subsidization there should be for Amtrak by the Federal Government. I think it is not at all without precedent that there would not (sic) be some Federal subsidies of passenger rail just as there are capital subsidies for airports, for runways, and for highways.

So I am comfortable providing assistance for passenger rail in our country, but I do not think it should be for operating subsidies. I think we need to find a way for Amtrak to have the capital assistance that it needs to become secure, but then operate on its own with some of the business opportunities that I hope a comprehensive legislative reform measure would help make possible.

Hearing on Amtrak's Financial Situation, Surface Transportation Subcommittee of the Senate Commerce Committee, at 2 (March 13, 1997).

Senator Hutchison clearly was supportive of Amtrak continuing to receive, "the capital assistance it needs," which had for many years included funds for progressive overhauls. No thought was expressed to change that situation. Further, since depreciation was not funded at the time by operating grants, it strains credulity to read into Senator Hutchison's remarks an intent to change the status quo on depreciation.

Tom Downs, who was then President of Amtrak, reaffirmed Amtrak's commitment to the operating self-sufficiency goal:

"On the glidepath, it still shows us at 2002 out of the subsidy business. We have publicly committed to that. I have never wavered from that commitment. I have simply said, give us the capital, make us self-sufficient, and we will be."

Id. at 6.

Clearly, the Committee and Senator Hutchison were focused on the glidepath submitted by Amtrak and wrote the operating self-sufficiency requirement to hold Amtrak to just that goal. Amtrak did not propose as its own glidepath to change the funding of progressive overhauls or to begin to recover non-cash expenses such as depreciation from operating revenues. That would have been contrary to the past funding practice. Amtrak's glidepath as submitted to the Committee, as incorporated into the hearing record at p.18, and as incorporated into the Amtrak business plan, follows:

[INSERT CHART]

While Amtrak prepares its financial statements in accordance with GAAP, the Amtrak Reform and Accountability Act (ARAA) does not require adherence to GAAP for the measurement of operational self-sufficiency. Instead, the ARAA requires that Amtrak operate without Federal operating grant funds, except to the extent necessary to pay for Amtrak's excess Railroad Retirement (RRTA) obligations. The Congressionally mandated test for operating self-sufficiency is simply a test of how much cash is required for Amtrak's operations. The use of GAAP as a measure of operating self-sufficiency is wrong as a matter of statutory construction.

In discussing ARC's duties to make evaluations and recommendations concerning Amtrak's performance and need for certain improvements and reforms, the relevant statutory language requires ARC to consider, among other factors, "appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles..." ARC has apparently leapt from this language to the wholly unsupported conclusion that ARC is required to measure Amtrak's ability to achieve operational self-sufficiency "into the indefinite future" by GAAP which require that depreciation, maintenance, and non-cash employee benefit expenses be reflected as operating expenses in financial statements. A full and fair reading of the ARAA shows that there is no connection whatsoever between the statutory language concerning internal uniform cost and accounting procedures, and the statutory test for Amtrak's operational self-sufficiency. Nothing in the ARAA requires that Amtrak's ability to meet the operational self-sufficiency test by 2003 be measured exclusively by GAAP.

This is directly relevant to the discussion of the use of capital grants for progressive overhauls. Amtrak records such spending as an operating expense

Amtrak's Glidepath to Self Reliance

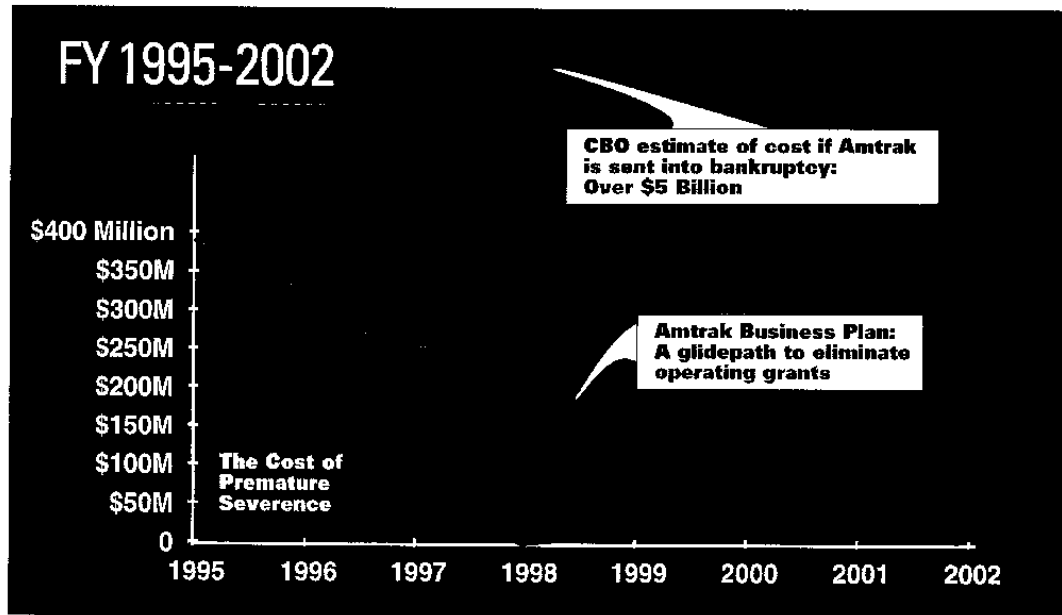


Chart 5

pursuant to GAAP. But Amtrak has been properly funding progressive overhauls with capital grants since 1993 with explicit Congressional consent. This is stated in DOT Appropriations reports in Fiscal Years 1993, 1994, 1995, and 1996. When Congress passed the ARAA in 1997, it was silent on this issue – unlike the RRTA exception, the Congress said nothing on this issue to mandate or even imply a change from current law. And subsequent to passage to the ARAA – in Fiscal Years 1998, 1999 and 2000, Congress has authorized Amtrak to use its capital funds for progressive overhauls. There simply is no basis to infer, as the ARC does, that when Congress adopted the operating self-sufficiency test as part of the ARAA in 1997 that Amtrak would be required, after 2002, to abandon its practice of funding progressive overhauls from capital grants.

Further, the use of progressive overhauls benefits Amtrak's customers and its financial results. Overhauling equipment on a progressive basis costs less than a heavy overhaul, but still provides a more reliable service for customers through the replacement of major equipment components. The alternative is conducting heavy overhauls, where all components are replaced at one time. Because total overhauls are more costly, they are not done as frequently. Relying on a heavy overhaul program risks having equipment in operation that may have major components in disrepair, such as HVAC systems, toilets etc.

A similar issue exists for depreciation. Amtrak has recorded the full value of depreciation as an operating expense for 28 years, and has no plans to do otherwise. However, depreciation is a non-cash expenditure, and as such, *is not funded as part of a federal operating contribution*. The ARAA does not say otherwise.

Neither the GAO nor the DOT IG has concluded that achieving operating self-sufficiency will require Amtrak to cease funding progressive overhauls from capital grants and to begin recovering non-cash depreciation. The July 1999 GAO report cited by ARC's counsel assessed Amtrak's financial performance in 1998 and noted the affect on such results of including or excluding the cost of progressive overhauls when measuring Amtrak's financial performance. The GAO flagged the issue, but did not resolve it. Similarly, the DOT IG raised the issue of how to treat progressive overhauls for the purpose of operating self-sufficiency, but did not resolve it. Indeed, the DOT IG noted the "unfortunate consequence" of requiring Amtrak to discontinue progressive overhauls if the self-sufficiency mandate was interpreted as ARC suggests.

Amtrak's position on both these issues is proven by the exclusion of excess RRTA from the operating self-sufficiency test. The ARC report implies that because Congress expressly included an exception from the operating self-sufficiency test for this line-item, specific legislative language would be required for other exceptions, such as progressive overhauls and depreciation. Such a conclusion ignores the fact that when the ARAA was adopted in 1997, Amtrak was funding excess RRTA from *operating* grants, and therefore an explicit

exemption for excess RRTA was necessary in formulating the operating self-sufficiency test. However, since Amtrak was already funding progressive overhauls and depreciation through capital grants, there was no need for an explicit exemption to exclude these items from the operating self-sufficiency test.

In applying the test of operating self-sufficiency, ARC would use GAAP as the relevant measure. *Accepting ARC's interpretation would mean that in adopting this operating self-sufficiency requirement in 1997, Congress intended to reverse years of prior practice and Congressional action to fund progressive overhauls through capital grants and not to fund depreciation through operating grants.*

The executive director of the ARC has advised Amtrak that ARC's legal counsel reaffirmed his position that GAAP is the appropriate standard for measuring Amtrak's operating self-sufficiency. ARC's counsel has reportedly relied on an interpretation of legislative intent and the purported views of the DOT IG and the GAO. The ARC is apparently following the advice of its counsel in preparing this report.

We think that ARC is wrong in asserting that GAAP is the "yardstick" for measuring operational self-sufficiency. This claim is inconsistent with Congressional intent and wrong as a matter of law. As the ARC report notes, "GAAP is used by the accounting profession when preparing and/or expressing opinions on the financial statements of for-profit corporations." However, GAAP is not a standard for measuring financial performance as it relates to meeting stated business objectives. An example of this can be seen in the current wave of entrepreneurial internet businesses which are prevailing in meeting business objectives, primarily growth, albeit against continuing GAAP losses.

The ARC and its counsel fundamentally confuse a statutory requirement regarding the "adoption of uniform cost and accounting procedures" based on GAAP (which Amtrak already follows) with the requirement that Amtrak operate "without federal operating grant funds appropriated for its benefit" beginning in Fiscal Year 2003. (ARAA sections 203(g)(2)(B) and 201.) In relying on GAAP as the sole measure of self-sufficiency, the ARC distorts the requirements of the ARAA in disregard of the relevant legislative history as well as common sense.

Labor Productivity Issues

Amtrak has 13 union and two councils representing its labor force. Over the past two years, new agreements have been negotiated with each of these unions and have achieved some of the best work rules in the industry. In fact, as the ARC notes in the report, the work rules generate over \$19 million in FY1999 in productivity and other savings. The ARC report fails to give credit to the Amtrak unions, which agreed to these work rule changes and flexibilities that are aimed toward Amtrak's achieving success. We would add that these new agreements were negotiated while Amtrak was simultaneously negotiating other agreements

for the High Speed Rail program, maintenance of the Talgo equipment in the Pacific Northwest, and resolution of the Labor Protection Provision, also known as C-2.

We know that one of the ARC's roles is to assess the productivity savings. To do so, our staff spent a significant amount of time meeting with ARC members and staff. ARC staff and members have been provided a plethora of information about the agreements, Amtrak's labor relations, and other aspects of how we manage our work force. Additionally, Amtrak staff spent considerable time answering questions, attending meetings, and making themselves available for assistance. Much of the information requested so far by the ARC, except for the details related to labor strategy in the soon-to-start negotiations, is material that has similarly been provided to Congress and to the GAO in a way that is responsive, but does not compromise sensitive negotiations. We will continue to review these matters with ARC and provided information as appropriate.

Tangible Negative Impact of Inaccurate, Misleading Statements

More care must be taken by ARC to assure that its opinions (1) do not interfere with Amtrak's ability to enter the financial markets, and (2) do not result in increasing Amtrak's capital and operating costs, thereby preventing achievement of operating self sufficiency.

We are deeply concerned with the negative impact that ARC statements concerning GAAP's application to the operating self-sufficiency determination could have on the capital and credit markets available to Amtrak. It is the Council's mandate to evaluate, not adversely influence, Amtrak's ability to achieve operating self-sufficiency. We have alerted ARC to this concern and it has still gone forward notwithstanding the potential adverse consequences.

While the executive summary states that this report "is not in any sense a finding, nor does it address the issue of a finding by the Council," the report inappropriately contains prejudicial statements that take the reader down the path toward a negative finding. The report incorrectly asserts that Amtrak will permanently use the TRA funds for maintenance expenses and, as a result, literally concludes that Amtrak will likely not achieve the financial improvements initially anticipated. Amtrak's business plan clearly describes a repayment schedule to which Amtrak has adhered. Additionally, the insistence on the use of GAAP as the sole measure of operating self-sufficiency is a fundamental error, which, if not corrected, will lead to the ARC making a finding that Amtrak will not achieve operating self-sufficiency in 2003. These conclusions will not escape the readers.

Summary

Amtrak has worked cooperatively and diligently with the ARC since its inception in 1998 and with the ARC's staff since they began work in mid-1999. Most recently, as you can see from the attached January 6, 2000 letter from Amtrak Board Chairman Tommy Thompson to Council Chairman Gil Carmichael, (Appendix) Amtrak welcomes recommendations from the Council, and has in fact incorporated some of them into its Strategic Business Plan. This is why it is all the more disappointing to us that the ARC has ignored or distorted the information that we have in good faith provided. The ARC has intentionally overlooked twenty-eight years of historical context for Amtrak, formulated conclusions that will hurt Amtrak's ability to achieve operating self-sufficiency, and most disturbingly, included in the report errors that assure that Amtrak will be disadvantaged in the financial markets. The Board of Directors, officers and employees of the National Railroad Passenger Corporation remain committed to abiding by the spirit and letter of the Amtrak Reform and Accountability Act of 1997, and we challenge the ARC and its staff to join us in this commitment.

ABBREVIATIONS AND ACRONYMS

ARAA	Amtrak Reform Accountability Act of 1997 (P.L. 105-134)
BOARD	Amtrak’s Board of Directors
COUNCIL	The Amtrak Reform Council
DOT-IG	U.S. Department of Transportation, Office of the Inspector General
FRA	Federal Railroad Administration
FY	Fiscal Year (October 1-September 30 of any given year)
GAAP	Generally Accepted Accounting Principles
GAO	U.S. General Accounting Office
ISTEA	Intermodal Surface Transportation Efficiency Act
MBNA	Market-Based Network Analysis
MBPOs	Minimum Business Plan Objectives
M/E	Mail and Express
NEC	Northeast Corridor
“PLAN”	Amtrak’s October 12, 1998 Strategic Business Plan
RTA	Railroad Retirement Tax Act
TEA-21	Transportation Equity Act for the 21 st Century
TRA	Taxpayer Relief Act of 1997
UPS	United Parcel Service

FOREWORD

The Amtrak Reform and Accountability Act of 1997 (P. L. 105-134) (the Act, or the ARAA) enacted a package of reforms relating to the National Railroad Passenger Corporation (Amtrak), the most important of which was to require that, within five years of enactment, Amtrak operate without “Federal operating grant funds.” (49 U.S. Code 24101(d)) The Act contained other provisions designed to allow or compel Amtrak to improve its performance, the principal of which are:

- rescinding Amtrak’s statutory monopoly over intercity rail passenger services;
- establishing liability limits and allowing allocation of liability for Amtrak and other potential intercity rail passenger operators;
- replacing Amtrak’s Board with a new “Reform Board” whose members “have technical qualifications, professional standing and demonstrated expertise in the fields of transportation or corporate or financial management;”
- eliminating provisions (i) mandating federally-established standards of labor protection for Amtrak employees and (ii) barring contracting out of most work; these issues were placed on the labor-management bargaining table; and
- providing Amtrak with statutory flexibility to improve productivity, restructure and rationalize its route system to conform more closely to the market and make needed high-priority, high-return capital investments (using funds made available under the Taxpayer Relief Act of 1997 and made contingent upon the enactment of the ARAA as Amtrak reform legislation).

The Act also established the Amtrak Reform Council (the Council) as an independent federal commission which has a five year mandate to oversee Amtrak’s performance vis-à-vis the provisions of the ARAA. For those who are not familiar with the Council and its mandate, this foreword sets forth the major responsibilities with which the Act charges the Council, and briefly describes the approach that the Council is taking in executing its responsibilities.

A. THE COUNCIL’S MAJOR RESPONSIBILITIES

The ARAA charged the Council with these major responsibilities:

- To monitor Amtrak’s progress in meeting the financial performance goals of the Act;
- To evaluate Amtrak’s performance;
- To recommend to Amtrak, based on that evaluation, measures for the improvement of its performance;
- To recommend to the Congress any changes in the law that the Council believes to be necessary and appropriate; and

- Should the Council find on or before the end of FY2002 that Amtrak will not meet the financial goals of the Act, to develop an action plan for the restructuring and rationalization of the national system of intercity rail passenger services and to submit such plan to the President and the Congress within 90 days of any such finding.

The Council believes that the Act's intent is for the Council to carry out its responsibilities with the goal of maintaining a national system of intercity rail passenger services now and into the future. It is clear, in the Council's view, that the fundamental purpose of the Act is to improve intercity rail passenger service in America, which includes both the quality of the service provided to the public and the economic and financial efficiency with which the service is delivered. The direct charge for implementing these goals falls on Amtrak. Oversight of Amtrak's efforts to meet these goals is the responsibility given to the Council under the Act.

B. THE APPROACH BEING TAKEN BY THE COUNCIL

The principal focus of the Council is to evaluate Amtrak's Strategic Business Plan and Amtrak's performance and to make recommendations for improvement to Amtrak's management and Board to achieve the goals of the Act. In conducting its evaluation, the Council will examine Amtrak's legal framework for providing intercity rail passenger service, its structure, its functions, and its performance, to determine where Amtrak is performing adequately and where intercity rail passenger service needs improvement. The process of evaluation implies criteria for making judgments, not only about whether Amtrak is meeting its statutory directives, but also about whether it is doing so in the most effective and efficient manner.

The principal criteria and work guidelines that the Council is using are:

1. Amtrak's institutional framework and organization through which it conducts its operations must be well structured;
2. Amtrak must conduct the financial and systems operations of its core business with efficiency;
3. Amtrak's financial operations must be transparent, that is, the financial performance and condition of each of Amtrak's business units must be clearly reported and readily understandable; and
4. Amtrak's management and Board must be accountable for their actions.

Additionally, the Council has found it essential to engage in a program of research, education, and public policy development encompassing not only Amtrak but intercity rail passenger service outside of Amtrak, and, where appropriate, profitable passenger service operations outside of the United States.

Once organized and funded, the Council, in the spring of 1999, began to carry out its mandate through a broad program of research and consultation:

1. Through regional outreach meetings to hear the views of state departments of transportation. Meetings have been held in Philadelphia, Charlotte, Seattle, Chicago, and Dallas; in 2000, meetings will be held in California, New England, and the Mountain States;
2. In conferences that included the World Bank and other experts to determine the approaches being taken around the world to the restructuring and improvement of intercity rail passenger service. The Council held a seminar in Washington in May 1999 on this issue. In addition, the chairmen of the Productivity and Financial Analysis Committees of the Council, together with the Council's Executive Director, attended the World Rail Conference in November in London, where the delegation also held meetings with several of the government agencies and private companies of the newly restructured rail industry in Britain; and
3. Through research and analysis by the Council's staff, which has worked closely with Amtrak, the Office of the Inspector General of the U.S. Department of Transportation, the General Accounting Office, the rail freight industry, the railway labor organizations, and with many other parties.

Stemming from this year's work program, the Council is developing recommendations for the improvement of Amtrak and of our national system of intercity rail passenger service. The Council has started presenting recommendations to Amtrak and, through this report, to the Congress.

C. FURTHER INFORMATION ABOUT THE COUNCIL

For further information about the Council, its statutory mandate, and its members and staff, see Appendices A, B, and C. Additionally, the Council maintains a website that contains background information, minutes of prior meetings, and schedules of upcoming public meetings at: www.amtrakreformcouncil.gov.

I. BACKGROUND AND OBJECTIVES

Not since Amtrak was created have the prospects for an improved and expanded system of intercity rail passenger service been so promising. Growing congestion of air and road travel in many regions of the country has led government officials and planning bodies at the local, state, regional, and federal levels to look to rail as an alternative to building more airport and road capacity. This is particularly so with respect to commuting in growing metropolitan areas, where congestion has been aggravated by urban, suburban, and ex-urban growth. A corollary major issue relates to intercity travel along corridors where travel could be made more bearable than driving on heavily-trafficked, truck-laden highways or on jam-packed aircraft whose schedules can be rendered meaningless by congestion, mechanical failures, and the vagaries of weather.

Unlike roads and air, however, neither local or state governments nor the federal government have determined an institutional and financial solution for adding the track and equipment capacity to provide an expanded system of intercity rail passenger service. The privately-owned rail freight rights-of-way present unique issues compared to the publicly-owned and publicly-funded national systems of highways, airports, and airways. Rail rights-of-way, unlike other modes of transportation, do not have a stable funding mechanism for rail passenger corridor development.

Despite these obstacles, however, the need for additional transport capacity has driven regions, states, and localities to look for new means to improve transportation. A significant number are developing ambitious plans. Some have entered into partnerships with Amtrak and the private freight railroads to provide improved intercity rail passenger services that are proving attractive to the market and affordable from the standpoint of public expenditure. The track improvements that accompany these passenger service improvements provide benefits to the private rail freight carriers as well.

Specific rail passenger development efforts led by the States have stemmed, for the most part, from the system of intercity high-speed rail corridors that have been designated under ISTEA (the Intermodal Surface Transportation Efficiency Act) and TEA-21 (the Transportation Equity Act for the 21st Century).

A. AMTRAK'S FINANCIAL POSITION AND CONGRESSIONAL ACTIONS TO IMPROVE THE CORPORATION

Against this promising background, Amtrak continues to incur significant financial losses that have required the commitment of substantial federal financial resources to keep intercity rail passenger service solvent. Taken as a whole, federal funding for Amtrak over the past 28 years amounts to an average annual grant of about \$790 million. Amtrak's financial performance has been accompanied by traffic trends that find fluctuating ridership levels in various corridors and a pattern of inconsistent service quality. Even in the several cases where Amtrak can point today to increasing ridership, they are often due to the institution of new services or major service improvements at the initiative of, and with major financial contributions from, states or groups of states.

Since the Rail Passenger Service Act of 1970 was enacted, America's intercity passenger transportation system has expanded almost beyond recognition – except for its network of intercity rail passenger services. The most notable accomplishment of intercity rail passenger service since 1970 is that it has simply managed to survive, albeit as a declining percentage of the total transportation market. For modal trends, see the table below.

U.S. Intercity Passenger Travel (Millions)				
	<u>1989</u>	<u>1998</u>	<u>%Change</u>	<u>Annual % Change</u>
Rural Auto Travel	777.5	1160.4	9.6	5.5%
Airline	453.7	614.2	+35.3	3.9%
Bus (Class I)	334.0 (1990)	360.0 (1996)	+ 7.8	1.3%
Rail (Amtrak)	21.4	21.1²	- 1.4	-0.2%
US Population	246.3	270.3	9.5	1.1%

Congressional concern about Amtrak's long-term trends contributed to the enactment of the Amtrak Reform and Accountability Act of 1997 (the ARAA, or the Act). The ARAA addressed certain major issues regarding Amtrak's institutional framework and labor-management relations, set clear goals for its financial performance during the five years after enactment of the law (requiring it to operate without federal operating grant funds after FY2002), and established the Amtrak Reform Council (the Council) as a bi-partisan oversight body.

B. THE AIM OF THIS FIRST REPORT

This Annual Report seeks to achieve the following objectives:

1. To report on the Council's current evaluation of Amtrak, to describe – from the Council's viewpoint – what Amtrak is today, how it is performing, and what improvements it might consider making;
2. To report on the Council's monitoring of Amtrak's financial condition and performance;
3. To fulfill the Council's specific requirements for reporting to the Congress concerning:
 - Amtrak's use of funds provided under the Taxpayer Relief Act of 1997 (TRA);
 - productivity improvements;
 - any recommendations for closure or realignment of routes in Amtrak's system;
 - recommendations for improvement that the Council has forwarded to Amtrak;
 - and
4. To describe the principal tasks that the Council will accomplish in FY2000.

The next section of the report outlines the diversity of functions that Amtrak performs.

² Amtrak's ridership in FY1999 was 21.5 million passengers. Amtrak indicated that ridership levels were depressed during the period in question due to inadequate capital investments over the period and due to decisions to reduce levels of service and/or increase fare levels, which reduced ridership levels.

II. AMTRAK TODAY

Amtrak was established by the federal government under the Rail Passenger Service Act of 1970 as a means of removing the burden of passenger operations from America's private railroads. At that time, losses from passenger service regulated by the Interstate Commerce Commission were costing the railroad industry an estimated \$500 million per annum. In exchange for turning passenger operations over to Amtrak, the railroads transferring their obligations to provide passenger service to the newly-created Amtrak agreed to pay to Amtrak one year's estimated operating losses and allow it continuing access to their tracks on an incremental cost basis with the historical passenger service operating priority.

A. AMTRAK'S LEGAL FRAMEWORK AND STRUCTURE

Amtrak, whose full statutory name is the National Railroad Passenger Corporation, was originally established as a mixed ownership corporation under the provisions of the District of Columbia Business Corporation Act and the Government Corporation Control Act. Today, under the provisions of the ARAA, Amtrak's legal status is that of a private corporation, although, as Amtrak points out, it continues to be subject to many of the constraints applicable to government-owned corporations. In addition, the ARAA made fundamental changes in Amtrak's legal and regulatory framework. The ARAA:

- Put in place a new Board of Directors, called the Amtrak Reform Board, to oversee the corporation's operations;
- Required Amtrak, over the five fiscal years from FY1998 through FY2002, to wean itself from the need for federal operating grant funds to cover its "operating losses" (though capital funding will likely continue);
- Further required Amtrak to redeem its outstanding common stock, owned by private shareholders, at fair market value, and eliminated the liquidation preference and voting rights of the US-government-owned preferred stock, on which more than \$6 billion in dividends, which are unpayable, have accumulated;
- Ended Amtrak's legal monopoly over intercity passenger service by rail, but retained Amtrak's special statutory access to the track of the private railroads at incremental cost and with the historical passenger service operating priority;
- Provided Amtrak with complete flexibility to determine its national system of routes and services in response to the marketplace, unlike the Congressionally mandated network system of the past;
- Abolished specific statutory provisions for labor protection and contracting out, and placed the disposition of these issues on the labor-management bargaining table; and
- Put in place limitations on rail passenger transportation liability and allowed Amtrak to enter into contracts with other railroads, states, and commuter authorities to allocate financial responsibility for claims.

B. FUNCTIONS PERFORMED BY AMTRAK

Amtrak, established by statute to operate passenger trains in intercity service, and which employs approximately 25,000 people, performs an exceptionally broad set of functions. Amtrak is:

Intercity Rail Passenger Transportation Operator (Core Business)

1. An intercity rail transportation operating company, that moves passengers, mail and express and provides passengers with on-board meals and, in some cases, lodging throughout the Continental U.S.;
2. An asset manager for its equipment, including approximately 345 locomotives and 1,962 cars;

Northeast Corridor Infrastructure Company

3. An infrastructure operations company established by statute, principally for most of the Northeast Corridor's (NEC) complex set of tracks, bridges, tunnels, stations, signals, and communications that stretch between Washington, DC, and Boston, MA;
4. An engineering company, responsible for maintaining and improving most of the NEC's infrastructure;
5. A telecommunications and signaling (process control) company;

Rail Equipment Manufacturing, Maintenance, and Repair Company

6. A company which re-manufactures, re-builds, maintains and repairs locomotives and passenger coaches (in its shops in Beech Grove, Indiana, along the NEC and elsewhere);

Contractor

7. A contractor, or potential contractor, to: (i) domestic rail commuter agencies and state departments of transportation, and (ii) foreign rail passenger agencies (Amtrak has participated in a bid to provide such services in Australia);

Real Estate Development Company

8. A real estate development company for the stations and other real estate that it owns;

Federal Agency Functions

9. An entity that deals independently with the Office of Management and Budget and the Congress on annual levels of federal appropriations;
10. One of the major contributors to policymaking, along with the Congress and the Executive Branch, for the nation's intercity rail passenger system;
11. An entity which sometimes functions as if it were a federal grant-in-aid agency, dispensing funds to states and localities for projects that, while they might generally contribute to the development of intercity rail passenger service, may not have any beneficial effect on Amtrak's general financial performance; and
12. A federally-chartered corporation whose Board is nominated by the President and confirmed by the Senate, with no input from its common stockholders.

The first of these functions is the operation of intercity rail passenger trains. At this juncture, the question is, which, if any of the other functions, should be done within the same corporation or corporations that carry out passenger train operations.

The goals established for the corporation by law (49 U.S.C. 24104(c) and (d)) encourage it to use its best business judgment to minimize federal operating subsidies and to maximize the use of its resources, including the most cost-effective use of employees, facilities and real property. In pursuing these objectives, the corporation is directed to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize federal subsidies.

Amtrak's broad charter affords the corporation with significant opportunities to generate income from activities beyond the provision of intercity rail passenger service, but also presents the possibility of incurring significant financial losses in pursuing activities outside these core activities. Over time, Amtrak has used its real estate and other assets to generate income that has benefited its rail passenger operations.

However, the Council understands that in one situation originating in the late 1980's, Amtrak lost \$20 million on a contract to manufacture transit equipment for a commuter authority. In another business pursuit not directly related to providing passenger rail service in the United States, in FY 1999 Amtrak bid, as part of a consortium, on a franchise to operate intercity rail passenger service in Australia. The consortium in which it bid was not successful in winning the contract, but had it done so, is this the type of activity that is appropriate for a corporation that is receiving substantial federal financial support? What types of risks are appropriate, and what are the financial implications for the federal government, as a result of these ventures? These are important issues that the Council is looking into with respect to possible recommendations to Congress for changes in Amtrak's statutory powers.

In the case of the other modes (e.g., the airways, highways, and waterways) that are financed by the federal government, the wide range of functions that Amtrak carries out are organized in such a way that governmental and private sector responsibilities are clearly defined and separated, funding sources and financial performance are transparent, and the responsibilities of management, engineering, manufacturing, and transport operating companies are delimited and clear. In contrast, in Amtrak's case, all of these functions have been combined in one very large, government-chartered corporation.

C. FUNDING SOURCES

In addition to approximately \$1 billion of passenger-related revenues, Amtrak receives federal and state funding for the operating deficits and capital investments needed to equip and operate a national system of intercity rail passenger services that is determined by Amtrak (prior to enactment of the ARAA, Amtrak's national system of routes and services, its "basic system," was defined by law). States that want to operate additional services must contract with Amtrak (or another operator) and negotiate a cost-sharing or cost-assumption arrangement for the additional services. For FY1998, Amtrak received federal grants of \$783 million (excluding funds from the Taxpayer Relief Act of 1997), while reporting, on a Generally Accepted Accounting Principles (GAAP) basis, a net loss of approximately \$353 million, and an operating deficit of \$930 million, excluding federal payments. In contrast to the basic system, state-initiated passenger services in states such

as California, Washington, and North Carolina are heavily funded by the states, including funding for capital and operating costs, which include an allocation of Amtrak overhead charges.

Aside from its annual federal and state operating and capital grants, Amtrak has had these other sources of funding for its capital expenditures:

1. In the 1970s, Congress provided Amtrak with guarantee authority to borrow \$1 billion to replenish the dilapidated equipment and facilities it received from the railroads when Amtrak was established. The Administration and Amtrak concluded in 1983 that Amtrak would not ever be likely to repay the debt, and arranged that the Federal Financing Bank of the U.S. Treasury be repaid through a special appropriation of the U.S. Department of Transportation.
2. In the Taxpayer Relief Act of 1997 (TRA), Amtrak received funding for capital needs in the amount of approximately \$2.2 billion. This money was made available as a tax refund (of taxes paid by Amtrak's predecessor railroads) and need not be repaid. Amtrak stated that the funds would be used for high priority, high return capital improvements.
3. Amtrak borrowed from private capital markets (to assist it in this endeavor, the U.S. Government has taken a subordinated position on the liens it holds on equipment financed with government grants). Amtrak's current outstanding indebtedness to private capital markets is approximately \$1.6 billion.

Three proposals are currently under consideration to provide capital to Amtrak, largely for the investments required both to rebuild and upgrade the NEC fixed facilities, which require substantial work if the high-speed Acela trains are to operate at full capability, and to fund some development of the emerging high-speed rail corridors that have been designated under ISTEA and TEA-21. First, S.1144 proposes to expand the states' flexibility to use their allocations under the Transportation Trust Fund so that they can make necessary investments in rail passenger service improvements. Second, Senator Lautenberg and more than 25 co-sponsors have introduced a proposal (S.1900) to provide \$10 billion in bonding authority for Amtrak to use over the next 10 years, on an Amtrak-State, 80-20 matching basis. The payment of principal with respect to the bonds would be guaranteed by Amtrak, and there is no provision in the statute for any federal liability in the case of default. Third, the Council understands that there will be a proposal that Congress appropriate the full amount of funds authorized for FY2001; this would provide, if enacted, some \$989 million in funding.

D. STRATEGY: AMTRAK'S EFFORTS TO OPERATE WITHOUT FEDERAL OPERATING GRANTS AFTER FY2002

In the wake of the enactment of the ARAA, in March of 1998, Amtrak's Board met to adjust its previous strategic business plan to enable it to achieve the financial goal of the ARAA, which is to operate without federal operating grants after FY2002. In October 1998, the newly-appointed Amtrak Reform Board released its first completely-revised

Strategic Business Plan, dated October 12, 1998 for FY1999 through FY2002 (“Plan”) to achieve these goals. The “Plan” sets objectives for, and describes the actions necessary to attain, the needed level of improved financial performance. The principal strategies set forth in the “Plan” for Amtrak’s business activities in FY2000 are:

- Structure a Market Driven National Network
- Become the National Leader in Corridor Development
- Provide consistent quality service
- Revitalize the Amtrak brand
- Leverage public and private partnerships

To assist the Corporation in implementing these strategies, and otherwise improving its business performance, the corporation has undertaken the following additional actions:

1. Fare Levels – Amtrak has, on average, increased its fares by approximately five percent over the past year.
2. Market-Based Network Analysis – Amtrak has developed a sophisticated analytical tool, called the Market-Based Network Analysis (MBNA), to optimize the operational and financial performance of its network of routes and services. It is expected that significant adjustments of services will begin to be implemented during FY2000.
3. Expansion of Commercial Activities – In FY1999, Amtrak’s non-core business generated revenues in excess of “Plan,” which more than offset the lower-than-plan performance of Amtrak’s rail passenger and mail and express operations.
4. Allocation of Overhead Costs – To recover more of its costs, Amtrak has, over the past few years, substantially increased billing of its allocation of Amtrak corporate and regional overhead to states and regional transit authorities for services that it provides.

The next section of the report outlines Amtrak’s financial performance and the Council’s mandated role of monitoring its performance.

III. MEASURING AND MONITORING AMTRAK'S FINANCIAL PERFORMANCE

A. LEGISLATION

Section 203(g) of the ARAA requires the Council to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms. The legislation further provides the following specific considerations to be evaluated:

1. Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;
2. Appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and
3. Management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

B. THE "YARDSTICK" FOR MEASURING AND MONITORING AMTRAK'S FINANCIAL PERFORMANCE

The Council has a statutory obligation to evaluate Amtrak's performance and make recommendations for achieving further cost containment, productivity improvements and financial reforms. "In making its evaluation and recommendations...the Council shall consider all relevant performance factors, including...appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, *based on generally accepted accounting principles...*" (emphasis supplied). A major element of monitoring Amtrak's financial performance is determining whether, in the Council's judgment, Amtrak will meet the statutorily-prescribed goal to "operate without federal operating grant funds appropriated for its benefit" after FY2002. In making its judgment, the Council needs to define a clear standard for measuring Amtrak's financial ability to operate, on a sustainable basis (meaning into the indefinite future, not just for two or three years), without federal operating grants.

The Council believes that the accounting standard specifically referred to in the Council's statutory mandate, GAAP, is, both logically and under current law, the method it must use to measure Amtrak's financial performance. Amtrak prepares its financial statements in accordance with GAAP, and Amtrak's independent auditors have taken no exception with Amtrak's accounting and financial reporting practices in this regard. The text box below describes the basis of GAAP accounting, including its treatment of the operating cost reflecting the consumption of capital assets used in the generation of revenues, which cost is called depreciation.

What Is GAAP?

GAAP is the financial reporting approach ordinarily used by the accounting profession when preparing and/or expressing opinions on the financial statements of for-profit corporations. GAAP requires the matching of revenues with the total costs of generating those revenues, including estimates of the cost of assets that are consumed, or have become obsolete, during the generation of the revenues for the period in question. Auditors' opinions on financial statements prepared in accordance with GAAP implicitly assume a going-concern basis for the entity, which means that the entity will remain in business indefinitely at its current level of activity and technology.

Financial statements prepared under GAAP include a recognition of the cost of capital associated with the enterprise in the form of depreciation. Depreciation is a non-cash charge against revenues designed to represent the estimated value of capital assets consumed or made obsolete during the period of time that the revenues were generated. In theory, an enterprise reserves a portion of its revenues equal to the depreciation charge to fund the repair and/or replacement of its capital assets at appropriate times. Such investments are essential if an enterprise is to remain in business at the same level of activity and technology for an indefinite period of time without outside support.

Amtrak's Measurement of Operating Self-Sufficiency.

In contrast to the Council's adherence to GAAP as the measuring standard, Amtrak believes that federal legislation and historical practice in place in FY1997 result in an operational self-sufficiency test that is based solely on the need for federal cash for operating purposes. Therefore, the non-cash charge of depreciation and the cost of progressive overhauls covered by capital funds (footnote 3) would not be included in the calculation of the cash contribution required for operations. Both Amtrak and the Council agree that federal legislation excludes the value of Amtrak's excess RRTA from the test of operating self-sufficiency.³

Amtrak's proposed test would make it much less difficult for the Corporation to achieve "operating self-sufficiency" by eliminating significant funding requirements. Specifically, Amtrak's approach, therefore, does not include the need for Amtrak to fund the following⁴ from operating revenues:

- Depreciation and non-cash expenses related to employee benefits, which were approximately \$370 million in FY1999, and are projected by Amtrak to increase to \$487 million in FY2002.
- Progressive Overhauls which would increase from approximately \$76 million in FY1999 to \$80 million in FY2002.

In addition to the effect that adopting these proposals would have on Amtrak's income statement, the proposals also hold important implications for funding Amtrak's capital

³ Amtrak believes that federal legislation and historical practices in place in FY1997 define the measure of operating self-sufficiency as the cash requirements of operations. This means that progressive overhauls and non-cash items such as depreciation and certain employee benefits are excluded from operating profit/(loss) solely for the purpose of defining operational self-sufficiency. Amtrak advised that federal capital grants have been used to fund progressive overhauls since 1993 with the explicit approval of Congress through Appropriations language.

⁴ The forecasts used in this example are from Amtrak's October 12, 1998 Strategic Business Plan.

expenditure requirements. Amtrak is proposing capital programs of approximately \$1 billion per year for the next ten to fifteen years. Based on the GAAP depreciation and other non-cash charges in FY2002 of \$487 million, and the \$80 million cost of funding progressive overhauls, \$567 million of the \$1 billion Amtrak capital program for FY2002 would merely be used to replace capital assets consumed or made obsolete in FY2002. The total funding requirement increases to \$752 million, if the \$185 million to fund excess mandatory Railroad Retirement Taxes for FY2002 is added to the minimum capital requirements.

Statutory Exception

Because Amtrak's employment has remained at approximately the same level while employment in the railroad industry overall has declined by approximately 50 percent, Amtrak is bearing a larger share of the annual cost of Railroad Retirement contributions than was previously the case. To offset this burden, the Congress has recognized the "excess" mandatory payments that Amtrak has paid into the Railroad Retirement account in Amtrak's annual appropriations since 1991, including specifically earmarking funds for this purpose in fiscal years 1991 through 1994 (since that time the amount has been included without specific earmarking in Amtrak's annual federal grant). That annual amount is approximately \$166 million to \$185 million (by Amtrak's calculations) and, by statute, it is not to be counted as "federal operating grant funds" provided to Amtrak. 49 U.S.C. 24104(a) and (c).

Role of the Federal Capital Grant

Since Amtrak has never been profitable, it has not been able to internally generate the cash reserves needed to replace its assets. Instead, the replacement of existing assets and acquisition of new assets have been funded through federal capital grants, together with capital provided by states and through various financing mechanisms. (Federal capital investment also plays a significant role in almost all other forms of transportation in the United States.) Even with the funding provided under the ARAA and the TRA, Amtrak has not received stable, annual federal funding to cover its operating deficits and its requirements for capital to maintain and improve its assets.

At the time the ARAA was enacted, Amtrak was receiving both a federal operating grant and a federal capital grant. While section 201 of the ARAA (49 U.S.C. 24104(d)) specifically provides that Amtrak shall "operate without Federal operating grant funds appropriated for its benefit," the ARAA is silent on the role of federal capital grants for Amtrak after 2002. Amtrak assumes that it will continue to receive federal capital grants for an indefinite period after 2002. The President's most recent budget request also shows, in its out-year budget assumptions, Amtrak capital grants of \$521 million annually through 2006, the last year for which projections were made. However, Congress and the Administration have yet to formally establish through legislation a policy on the federal role in providing capital investment in Amtrak after 2002.

A Perspective on the Two Approaches to Measuring Operating Self Sufficiency

To demonstrate clearly the differences between the Council's approach and Amtrak's interpretation of the appropriate measurement test of operating self-sufficiency, the following table is provided.

**Comparison of Amtrak's Interpretation of the Appropriate
Measurement Test of Operating Self-Sufficiency with GAAP Accounting**

Amtrak's Interpretation of the Appropriate Measurement Test of Operating Self-Sufficiency					Assuming Full GAAP Accounting FY2002
	FY 1999	FY2000	FY2001	FY2002	
Revenues (a)	1,866	2,184	2,396	2,501	2,501
Expenses	(2,796)	(3,092)	(3,215)	(3,253)	(3,253)
Operating Profit/(Loss)	(930)	(908)	(819)	(752)	(752)
Progressive Equipment Overhauls	76	77	78	80	
Depreciation/Noncash Expenses (b)	370	469	499	487	
Budget Gap	(484)	(362)	(242)	(185)	(752)
Excess Mandatory Railroad Retirement Taxes (c)	166	172	179	185	185
Test For Self Sufficiency	<u>(318)</u>	<u>(190)</u>	<u>(63)</u>	<u>0</u>	<u>(567)</u>

(a) Financial projection amounts are taken from Amtrak's October 12, 1998 Strategic Business Plan

FY 1999 FY2000 FY2001 FY2002

(b) **Non-Cash Expenses**

Depreciation (Baseline Outlook Amounts)	360	459	489	477
Certain Employee Benefit Related Expenses	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>
Total Depreciation/Noncash Expenses	<u>370</u>	<u>469</u>	<u>499</u>	<u>487</u>

(c) Excess mandatory Railroad Retirement Taxes (RRTA) estimates prepared by Amtrak include the employees' share of excess mandatory RRTA. Other governmental entities believe that lower amounts of excess mandatory RRTA should be funded to Amtrak. However, Amtrak has indicated that it has calculated this amount using consistent methodology since 1991 in accordance with Congressional direction.

Under Amtrak's approach, Amtrak would pass the test of operating self-sufficiency in FY2002 while still requiring federal grants of approximately \$752 million including: \$80 million for progressive overhauls, \$185 million for excess RRTA, and approximately \$487 million for renewing and replacing its assets.

C. AMTRAK'S FINANCIAL PERFORMANCE IN FY1999

Amtrak has released preliminary financial results for FY1999 (ended September 30, 1999) indicating that its financial performance is \$8 million better than Amtrak's Strategic Business Plan projected for that fiscal year. Amtrak's FY1999 \$8 million better-than-Plan performance, however, is due to net earnings from Commuter, Reimbursable and Commercial activities being \$19.6 million ahead of the FY1999 Plan projections. Most of this favorable net income variance was attributable to higher profits from Commercial Revenues, which were approximately \$27 million ahead of the FY1999 Plan from contracts for pipeline and fiber optic easements and flagging costs charged to outside

parties who were doing construction work on Amtrak's right-of-way. The remainder of the favorable variance to the FY1999 Plan is due to increasing charges to state and local governments and commuter authorities than historical billings. There may be limited potential to continue earning high commercial revenues (some commercial revenues are one-time in nature, and there is a limit to how much contracts for pipeline and fiber optic easements can be renegotiated upwards). Moreover, it is unclear whether the significant recent increase in state payments, which increased from \$35 million of operating subsidies in FY1995 to an estimated \$350 million in FY2000, including approximately \$110 million of operating subsidies⁵ can be sustained. The Council has heard from several states expressing concerns over their willingness or ability to fund a greater share of Amtrak's operating subsidies.

Amtrak's statement that it is on a glide path to being free from federal operating grant funds is not especially meaningful for FY1998 and FY1999 since Amtrak projected very little operating and financial improvement for those two years. The key two years are FY2000 and FY2001, in which Amtrak projects approximately \$125 million in improvements in each year primarily due to the anticipated Acela Express service. Based on an \$8 million positive variance relative to its FY1999 Plan (which is more than fully attributable to commercial business opportunities that are unrelated to passenger rail transportation), Amtrak needs to achieve significant improvements in its financial operating performance.

When the favorable Commuter Reimbursable and Commercial variances from Plan are excluded from actual FY1999 performance, Amtrak's core business of providing intercity rail passenger service to approximately 21.5 million riders actually performed worse than anticipated in the FY1999 Plan. Although the negative variance in intercity (including NEC and Amtrak West) lines of business is not significant, the Council believes that Amtrak needs to recognize that it has to achieve step-level improvements in operating and financial performance during FY2000 through FY2002 to achieve its statutory goal.

D. IMPACT OF TRA AND OTHER CAPITAL EXPENDITURES ON FUTURE PERFORMANCE

A significant amount of the TRA funds anticipated to be invested by Amtrak in high priority, high return capital projects are being used to fund capital maintenance expenditures as described in Amtrak's business plans until appropriated funds are available. Amtrak indicated on January 13, 2000 that approximately \$100 million of such temporary loans were repaid. Unless all such temporary loans are repaid, Amtrak will not achieve the improvements in financial performance initially anticipated when Section 977 of the TRA was enacted. Although TRA funds may legally be used to pay maintenance costs and debt service, any such reallocation of TRA funds from their original intended purposes will result in increased capital investment requirements by the federal government and others in the future.

⁵ In addition to operating grants of \$110 million, Amtrak anticipates receiving approximately \$240 million in capital funds from the states in FY2000.

Amtrak's use of TRA funds and other corporate funds in "leveraged" investments with state and local governments and commuter authorities to fund engineering and operations studies and initial investments in emerging passenger railroad corridors are not investments likely to provide high return financial benefits to Amtrak by the end of FY2002.

Amtrak has not produced a proposed long-term capital expenditure plan for several years. Amtrak attributes this failure to: (i) the uncertain availability of federal and other funding for capital expenditures from year to year; and (ii) the uncertainty of Amtrak's future network. A corporation such as Amtrak, however, should have prepared and updated a long-term capital expenditure plan on an annual basis as part of its strategic business planning process and overall corporate management. The GAO and the DOT IG have repeatedly identified in reports and in Congressional testimony the need for Amtrak to prepare a long term capital expenditure plan for management purposes that will allow appropriate federal officials to make informed decisions concerning Amtrak. The Council also needs a long-term capital expenditure plan for Amtrak (updated at least annually as part of Amtrak's strategic business planning process) to carry out its statutory obligations.

E. ACTIONS NEEDED TO OPERATE FREE OF FEDERAL OPERATING SUBSIDIES

It is axiomatic that for Amtrak to meet its statutory goals under the ARAA, Amtrak needs to increase its revenues while controlling its operating and administrative costs⁶.

Reducing Unit Costs

Operating costs for a high-fixed-cost entity such as a railroad are difficult to control by reducing levels of service. In fact, increasing levels of service, provided that demand at attractive fares exists, is often the easiest way to increase the profitability of rail passenger transportation companies. This is only true, however, if the additional levels of service can be provided without commensurate increases in the number of employees needed and other costs incurred for the additional train frequencies.

Designing A More Productive Network

Transportation companies such as railroads can seldom "cut themselves back to profitability." Typically, as service frequencies are reduced, passenger revenues tend to decline faster than costs. According to Amtrak's management, the new MBNA model will explore and validate initiatives such as the one in the Mid-West to provide more frequent rail passenger service at a lower average unit cost per passenger, thus allowing the projected levels of increased service to operate profitably.

⁶ An example of Amtrak's high cost structure, in the bidding in early 1999 to provide equipment maintenance services for the Massachusetts Bay Transportation Authority's rail commuter operations, Amtrak, which had originally been awarded the contract on a sole source (non-competitive) basis, was the highest of four bidders for the contract, with a proposed price more than 60 percent higher than the winning bidder. Amtrak points out that the winning bidder was not subject to the railroad laws, which was a factor that Amtrak believes contributed to its losing bid.

Making High Priority, High Return Investments

Although the impact of increased volumes of traffic on unit costs are important, Amtrak needs to utilize all available means to improve its productivity (to lower the unit cost of providing passenger seat miles and other measures of service). Amtrak's Strategic Business Plan dated October 12, 1998 for FY1999 through FY2002 ("Plan") calls for utilizing the TRA funds to make high priority, high return investments that will have significant, positive financial impacts on its operating performance. However, as previously discussed, a significant percentage of the TRA funds are being used for projects that will not have a high return in the next few years; a large amount of funds (\$50 million currently) were used to pay debt service; and a significant amount of funds were borrowed temporarily with the intention of repaying such loans in 2000 and 2001, at which time they presumably will be used for high return projects. Future strategic business plans need to identify how the loans will be repaid, to what extent the repaid funds will be invested in high-yield projects, and what high-yield projects will be completed with the funds once they are available.

Covering Increased Costs

The Council is concerned that Amtrak's strategic business plans to date have not identified many issues of productivity including, but not limited to, discussions of how additional costs of collective bargaining agreements will be recovered. Amtrak has stated, that 20 percent of the cost increases associated with the labor contracts (largely negotiated in 1999 or 1998) will be recovered through productivity agreements already in place. Recovering only 20 percent of its labor cost increases through productivity improvements will not improve, and may adversely impact, Amtrak's financial bottom line, unless the balance of the labor cost increases are offset by higher revenues or productivity obtained through capital investments. Additionally, while labor cost adjustments are usually effective retroactively to the opening of the labor negotiations (often a year or two or more before the contract is finally negotiated and ratified), productivity savings can only be obtained prospectively. Amtrak anticipates achieving the projected productivity savings of 20 percent of the cost increases by the end of FY2000, by which time labor contracts will again be under negotiation and, accordingly, subject to possible retroactive application of a new round of labor cost adjustments.

The Impact of the Acela Express Delay

The announced delay in the introduction of Acela Express trains on the NEC from late 1999 until sometime in 2000⁷ has the potential to affect Amtrak's ability to operate without operating subsidies by the end of FY2002. Although short-term losses may be mitigated by liquidated damages provisions of its equipment acquisition contracts, Amtrak's long-term financial viability is dependent upon increasing high-profit-margin passenger ridership. The Council cannot determine the impact of the Acela delay until it receives additional information from Amtrak including, but not limited to, Amtrak's Strategic Business Plan for FY2000 to FY2004, which Amtrak has not yet released due to the Acela delay.

⁷ On September 1, 1999, Amtrak announced that due to technical problems, the introduction of Acela Express Service would be delayed. As of January 20, 2000, Amtrak has not announced a new date for the introduction of Acela Express service.

Other Areas

Amtrak's strategic business planning process should also include programs to save costs through energy conservation and through better accurate inventory management practices. Most successful private sector companies have sound inventory management practices with a strategic goal of reducing the funds invested in inventory. Amtrak should do likewise and do so rapidly.

F. RISKS AND OPPORTUNITIES

Amtrak faces several risks and opportunities, which should be identified and quantified in its strategic business planning process along with plans of corrective action to offset the potential adverse consequences of identified risks. Risks faced by Amtrak include, but are not limited to, the following:

- Revenue shortfalls, primarily in Amtrak's Intercity operations;
- Schedule delays (or schedule lengthening) due to freight railroad congestion;
- NEC revenue shortfalls due to delayed introduction of Acela Express services and potential passenger resistance to the fare premium anticipated for Acela Express trains over other Amtrak trains operating in the same corridor with slightly longer schedules;
- The ability to continue to increase the financial support received from states and commuter agencies;
- Increasing airline competition, particularly in the NEC, with airlines now offering competitive service between Washington's Dulles and Reagan National Airports and airports in New York and Boston, as well as service between other city pairs, such as Hartford and Baltimore, and Providence and Baltimore, by single, low-cost carriers providing frequent, cost competitive service; and
- Political interference with its business decisions concerning Amtrak's network, operations or funding.

Opportunities faced by Amtrak include, but are not limited to, the following:

- Improving capital productivity through programs to repair equipment faster and keep fewer spares;
- Increasing revenue-generating capacity by selectively increasing density of seating in certain equipment types, possibly creating additional train sets;⁸
- Higher revenues through better yield management practices;
- Higher revenues from additional profitable Mail & Express business; and
- Higher ridership revenues due to increasing traffic congestion and air traffic control delays in selected, short, high-density corridors.

⁸ The Council is not suggesting that Amtrak should consider reducing seat widths and leg room to airline dimensions, but to make reasonable adjustments where feasible to improve the productivity of its equipment and its revenue generating capacity.

IV. STATUTORILY ASSIGNED TASKS

The Council is required, under the ARAA and relevant appropriations acts, to make recommendations for improvements to Amtrak and to provide the following reports to the Congress:

- Section 209(b) of the ARAA requires the Council to provide quarterly reports to the Congress on “(T)he use of amounts received by Amtrak under section 977 of the Taxpayer Relief Act of 1997.”
- Section 203(h) of the ARAA requires that the Council report annually to the Congress: (A)n assessment of- (1) Amtrak’s progress on the resolution of productivity issues; or, (2) the status of those productivity issues; and make recommendations for improvements and for any changes in law it believes to be necessary or appropriate.”
- Section 349 of the FY1999 Omnibus Appropriations Act and Section 335 of the FY2000 Transportation Appropriations Act requires that the Council, as part of its annual report to Congress, identify those “...Amtrak routes which are candidates for closure or realignment...”
- Section 203(g) of the ARAA requires that “The Council shall (A) evaluate Amtrak’s performance and (B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.”

A. TAXPAYER RELIEF ACT

The Council has a statutory responsibility to monitor Amtrak’s expenditures funded by special tax refunds authorized by Section 977 of the TRA. Approximately \$2.184 billion⁹ of TRA funds for defined, qualified expenses were made available with the signing into law of the ARAA in December 1997, which was a precondition for the release of funds to Amtrak under the TRA.

Qualified expenditures under TRA include “the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail service” and “the payment of interest and principal on obligations incurred for such acquisition, upgrading, and maintenance” after September 30, 1997.

Although the ARAA gave the Council responsibility for monitoring Amtrak’s expenditure of TRA funds, the lack of a Council staff until the spring of 1999 coupled with the

⁹ A maximum of \$2.324 billion of TRA funds were authorized, with approximately \$140 million of such funds required by statute to be passed through by Amtrak to states without Amtrak service, leaving approximately \$2.184 billion of TRA funds for Amtrak investment.

complexity and the large number of projects for which Amtrak is using TRA funds (more than 81,000 transactions were recorded as TRA funded projects through June 30, 1999) spurred a Congressional request to the GAO to review Amtrak's TRA expenditures, which the GAO anticipates will be completed in February 2000. The Council will review the GAO report when it is issued, and will make appropriate comments and recommendations at that time.

Because the TRA expenditures are so intrinsically related to Amtrak's operating maintenance expenditures and regular capital expenditure programs, monitoring the use of TRA funds requires a full-scope audit of Amtrak's maintenance and capital expenditure process and a thorough review of Amtrak's financial information system. Such a major review and auditing task was more appropriately delegated initially to the GAO, whose highly-qualified field team (comparable in size to the Council's entire staff) has been working for more than six months to review and report on the TRA expenditures.

The GAO is only charged to review and audit TRA expenditures made through June 30, 1999. If TRA expenditure reviews or audits are desired for periods after June 30, 1999, either the Council needs to receive a significant increase in authorized and appropriated funds to engage an independent certified public accounting firm to do such a limited scope audit and review on behalf of the Council, or a formal request has to be made to Amtrak to have its independent certified public accounting firm do a special, limited scope review and report addressed to the Council on the TRA expenditures as part of its overall FY2000 audit of Amtrak.

Summarized in Appendix D are Amtrak's intended TRA expenditures, its capital investments by policy criterion and funding source for FY1999, a summary of actual TRA expenditures, and a discussion of TRA expenditures.

B. AMTRAK'S EFFORTS TO IMPROVE PRODUCTIVITY

Section 203(h) of the ARAA requires the Council to report annually to the Congress on productivity issues with regard to labor-management relations. It is important to note, however, that the concept of productivity does not apply solely to so-called human factor or labor productivity, but to the productivity of all four of the factors that are used in conducting a business, that is, capital, energy, and materials, as well as labor. It is also important to note that the productivity of each of these factors is the responsibility of corporate management, operating under the policy direction of the board of directors. It is in this context that the Council's assessment of labor productivity issues should be viewed.

The Council's Statutory Tasks under the ARAA

The Congress under the ARAA specifically charged the Council with monitoring and evaluating Amtrak's management efficiency and its progress in achieving labor productivity improvements with its labor force. Section 203(g) of the ARAA provides that in making its evaluation and recommendations regarding Amtrak's performance, "the Council shall consider all relevant performance factors, including...management efficiencies and revenue enhancements, including savings achieved through labor and

contracting negotiations.” ARAA Sec. 203(g)(2)(C). As part of this charge, if, after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, then Amtrak shall report quarterly to the Council both the savings realized as a result of the agreement and how the savings are allocated. In turn, the Council is required each year to submit to the Congress a report that includes an assessment of Amtrak’s progress on the resolution of productivity issues (or the status of those productivity issues), and that makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

The Basis for the Congress’s Concern about Amtrak’s Productivity

In the U.S., the growth in productivity of non-financial corporations has averaged nearly three percent for each of the last five years, according to Alan Greenspan in remarks before *The Business Council* in Boca Raton, Florida, on October 28, 1999. Amtrak has not done as well as seen in Amtrak’s annual reports. The Council has calculated some general ratios as a basic overall measure of Amtrak’s performance over the past 10 years. (See the Chart on the next page.)

Information Requested from Amtrak

Under subsection 203(f) of the ARAA, Amtrak is required to make available to the Council all information that the Council needs to carry out its duties. That subsection further requires the Council to “establish appropriate procedures to ensure against public disclosure of any information...that is a trade secret or commercial or financial information that is privileged or confidential.” Pursuant to a confidentiality agreement between Amtrak and the Council that would preserve the confidentiality of any proprietary information that Amtrak would provide, the Council requested Amtrak to provide certain detailed information to enable the Council to carry out its statutory duties. Among the information requested was the following:

- work rule changes Amtrak has made since January 1, 1997, and the annual cost savings associated with each work-rule change;
- historical and current labor productivity;
- consultant studies of Amtrak’s labor productivity;
- the basis for Amtrak’s statement that wage increases in recent labor agreements have been offset 20% by work-rules savings;
- any studies Amtrak has performed in the area of contracting out; and
- a census of Amtrak employees, for fiscal years 1988-1999, by major work category, and including direct labor and indirect labor overhead costs by major work category.

AMTRAK **Historical Measures Of Performance And Productivity**

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Number of Employees (Note A)	27,577	27,616	25,264	24,634	24,978	24,991	23,829	23,278	23,555	24,528	25,180
Passenger Miles (millions)	5,859	6,057	6,273	6,091	6,199	5,921	5,545	5,050	5,166	5,304	5,330
Seat Miles (millions)	11,328	12,052	12,251	11,955	11,914	11,972	11,939	10,902	11,094	11,426	12,064
Load Factor	51.7%	50.3%	51.2%	50.9%	52.0%	49.5%	46.4%	46.3%	46.6%	46.4%	44.2%
Passenger Miles Per Train Mile (PM/TM)	188.4	183.3	184.5	176.8	177.6	172.6	171.7	168.3	161.4	160.7	156.8
Amtrak Ridership (millions) (excluding contract commuter)	21.4	22.2	22	21.3	22.1	21.2	20.7	19.7	20.2	21.1	21.5
Average Trip Length of Passengers (miles)	274.2	273.0	284.1	285.2	280.9	271.1	267.6	256.9	255.8	251.5	247.8
Revenues: (\$ millions)											
- Passenger Related	870	930	965	930	943	880	874	901	964	1,001	1,058
- Total Revenues Excluding Federal Payments	1,269	1,308	1,359	1,325	1,403	1,413	1,497	1,555	1,674	1,743	1,834
Employment Costs (\$ millions)											
- Salaries, Wages and Overtime	722	738	733	746	811	856	865	857	893	1,011	1,005
- Retroactive Wage Adjustment (Note B)								35	35	(70)	
- Employment Benefits	312	338	342	330	343	349	355	354	377	407	415
- Postretirement Benefits						101					
- Employee Related	19	21	20	20	24	24	21	25	29	30	36
Total Employment Costs	1,053	1,097	1,095	1,096	1,178	1,330	1,241	1,271	1,334	1,378	1,456
Measures Of Productivity: (Note A)											
- Seat Miles Per Employee	410,777	436,414	484,919	485,305	476,980	479,052	501,028	468,339	470,983	465,835	479,110
- Passenger Miles Per Employee	212,460	219,329	248,298	247,260	248,178	236,925	232,700	216,943	219,316	216,243	211,681
- Amtrak Riders Per Employee	776.0	803.9	870.8	864.7	884.8	848.3	868.7	846.3	857.6	860.2	854.2
- Passenger Related Revenues Per Employee	31,548	33,676	38,197	37,753	37,753	35,213	36,678	38,706	40,925	40,811	42,025
- Total Revenues Excluding Fed. Payments Per Employee	46,017	47,364	53,792	53,787	56,169	56,540	62,823	66,801	71,068	71,062	72,836
- Salaries, Wages and Overtime Per Employee	26,181	26,724	29,014	30,283	32,469	34,252	36,300	38,319	39,397	38,364	39,913
- Total Employment Costs Per Employee	38,184	39,723	43,342	44,491	47,162	53,219	52,079	54,601	56,633	56,181	57,824

Note A: Number of Amtrak employees includes employees involved in Amtrak capital projects, contract commuter passenger service, contract equipment repair and overhaul, and contract roadway maintenance.

Note B: Adjustment for retroactive labor contract settlements (\$106 million in FY1998 for period FY1996 to FY1998).

An Assessment of Amtrak's Responses to the Council

Amtrak's responses to the Council's request to date essentially consist of copies of:

- recently negotiated labor agreements;
- management summaries of various work-rule changes in the agreements;
- recent examples of productivity analyses regarding: (i) the Amtrak Reservations Centers (1995), (ii) benchmarking Amtrak maintenance-of-way productivity against the rail transit industries (1998), and (iii) determining Amtrak's maintenance cost for diesel locomotives (1997) (for which the outside contractor needed to restate Amtrak's financial accounting system reports with its own estimates); and
- statements regarding certain identified savings from various work-rule changes in recent agreements; and various factual data regarding the Amtrak labor force.

Amtrak also submitted to the Council a "FY1999 Report on Productivity Improvements and Work Rule and Cash Savings," which provided a set of numbers on a quarter-by-quarter basis for FY1999. (Amtrak's report is attached as Appendix E.) The report stated a total of \$19.5 million in "productivity improvements and work rules and cash savings" for FY1999.

The Council and Amtrak are engaged in a dialogue to improve information collection and analysis because Amtrak's quarterly report to the Council on work rule savings arguably may not satisfy the statutory criteria of ARAA Section 203(g)(3). The current format of Amtrak's report does not clearly show how the savings are allocated and provides no analysis of how the numbers were calculated.

The Council is working with Amtrak to secure additional productivity data and to agree on acceptable methodologies for measuring cost savings achieved through work-rule changes and for monitoring general labor productivity; such an agreement is essential if the Council is to be able to meet the statutory reporting requirements of the ARAA.

Areas Where Amtrak Has Secured Productivity Improvements

Amtrak has achieved some changes in work rules in its recent agreements that have the potential to result in labor cost savings. Some of the more important changes are as follows:

- (a) Contracting out Amtrak's entire Commissary operations to an outside contractor, eliminating approximately 244 positions through employee buy-outs (Amtrak has had statutory authority to contract out its food service operations since 1981);
- (b) Extension of the period from 4 hours to 6 hours before a second engineer must be added to an engine consist (Amtrak estimates this will permit the elimination of over 50 positions in the short term, and another 30 positions in FY1999 and FY2000);
- (c) Management ability to establish district gangs in the Bridge & Building and Electric Traction sub-departments with increased flexibility that is expected to generate "significant savings in the performance of work necessary for

- implementation of high speed service on the NEC” (no specific savings calculations provided);
- (d) Increased management flexibility to establish Construction Gangs working outside normal starting time on the NEC (no specific savings calculations provided); and
 - (e) A High-Speed Rail Agreement that provides significant management flexibility in assigning mechanical and electrical work to specially qualified and trained mixed craft shop workers for repair and maintenance work to high-speed trainsets on the NEC. Under the agreement, the manufacturers of the high-speed trainsets (Bombardier/Alstom) will oversee and manage the maintenance facilities for the trainsets. The three-year agreement will commence with the introduction of high-speed revenue service on the NEC.

Two Additional Issues the Statute Requires the Council to Consider

The ARAA contains provisions concerning the two labor-management issues listed below. The Council is also mandated to report on their status.

Contracting Out. Amtrak has not identified to the Council any potential labor productivity improvements that may be achieved through contracting out any of its operations. Nor has Amtrak undertaken studies to determine whether contracting out any of its operations would improve its financial performance.

Under the reforms enacted under the ARAA, Amtrak is free to negotiate for the contracting-out of any and all operations effective November 1, 1999. (See ARAA Section 121.) Indeed, Section 121 requires that “proposals on the subject matter of contracting-out work...which results in the lay-off of an Amtrak employee...shall be included in negotiations under Section 6 of the Railway Labor Act between Amtrak and an organization representing Amtrak employees...which shall be commenced [no later than] November 1, 1999.” This provision is intended to improve Amtrak’s labor productivity in areas where it can be achieved through contracting out. To date, Amtrak has not served Section 6 notices with respect to contracting-out proposals under the provision of the ARAA.

Employee Protection. Section 141 of the ARAA removed all statutory employee protection provisions covering Amtrak employees and all Amtrak employee protection provisions from existing collective bargaining agreements. Instead, Section 141 required Amtrak and its employees to either negotiate new provisions in collective bargaining agreements or to submit the issue to binding arbitration. Amtrak and its unions chose binding arbitration.

In a November 1999 decision, a three-member arbitration board modified the pre-existing employee protective provisions. The “triggers” for the imposition of employee protective benefits for affected employees remained the same: (1) closure of a route or a reduction in frequency below three round trips per week; or, as affects shop employees, (2) closure of a maintenance shop facility or transfer of work from the facility to another facility more than 30 miles away.

The amount of employee protection provided to affected employees was modified (as regards major aspects) as follows:

- (a) Under pre-existing law, any affected Amtrak employee was entitled to wage and benefit protection for a period equal to the amount of service, not to exceed 6 years; under the arbitration award, an Amtrak employee must have two years of service with Amtrak to be awarded protection.
- (b) The maximum duration of employee protective benefits was reduced from 6 years to 5 years, and employees must have more years of service than previously, on a sliding scale, to reach maximum benefits. For example, an employee with 3-5 years of service would receive 12 months' benefits; an employee with 20-25 years of service would receive 48 months' benefits; and an employee with 25 or more years of service would receive the maximum 5 years' benefits. (Approximately 20 percent of current Amtrak employees have more than 20 years of service and would be entitled to 4-5 years of income protection for a "trigger" occurrence.)
- (c) The issue of whether labor protection would apply to the termination of Amtrak non-commuter contracts for local or state service was not decided by the arbitration panel. (The arbitration panel found that labor protection did not apply to commuter contracts.) The issue was remanded for further negotiation and re-submission to arbitration if there is no agreement.
- (d) The arbitration award may be further amended by the parties through further negotiations commencing January 1, 2000.
- (e) The arbitration panel agreed that no employee protection would be required for the first two years of any new service commenced after the arbitration.

Despite the improvements achieved by Amtrak through this arbitration, Amtrak's new labor protection obligations to employees, particularly those with many years of service, remain significantly higher than those of non-railroad corporations in the United States economy.

C. THE CONGRESS'S REQUEST FOR RECOMMENDATIONS ON ROUTE CLOSURES AND REALIGNMENT

To assist Amtrak in identifying economically attractive route closures and realignments, as well as to assist in overall business planning, Amtrak is developing a new strategic business planning methodology that it has named the Market Based Network Analysis (MBNA). The MBNA has an associated Financial Model, which is a variable-cost-based model that estimates, for alternative packages of rail passenger services and revenues, the expected costs of a proposed route or system of routes, and, as an output, the incremental profitability of such rail passenger services. The Council is charged with making recommendations for changes in Amtrak's route structure based on Amtrak's criteria. Until the results of Amtrak's MBNA are made available and fully analyzed by the Council, the Council will not be in a position to make recommendations on Amtrak's route closures and realignments.

For Amtrak to achieve the goals under the ARAA, Amtrak needs to implement significant cost reduction programs coupled with revenue enhancement efforts for new and modified rail services that are economically justified. The MBNA will help Amtrak to evaluate the national market for intercity passenger transportation, in order to identify a more market-driven and, presumably, more economically-viable national network.

Identifying the most promising improvements in operations and revenue enhancements requires sophisticated analyses of Amtrak's existing train service and could well call for the establishment of new transportation services. The MBNA Financial Model was developed to calculate Amtrak's variable costs on a route-by-route basis and couple such variable cost analysis with market-driven actual and potential demand for rail passenger transportation to determine incremental profitability of routes. The MBNA analysis is discussed in more detail in Appendix F.

D. RECOMMENDATIONS TO AMTRAK FOR IMPROVEMENTS

The ARAA requires the Council to evaluate Amtrak's operations and to make recommendations for improvement to the corporation. In evaluating potential recommendations, the Council has one criterion, which is very simple: that they should reflect sound business policies whose implementation will assist Amtrak's Board in making significant improvements in the financial and operating performance of Amtrak. In keeping with this mandate, the Council approved a number of recommendations and forwarded them, in November 1999, for the Board's consideration, the full text of which is in Appendix G, and which are summarized below.

Mail & Express ("M/E")

In mid-1999, the Council initiated discussions involving the Council, Amtrak, and – in separate meetings – United Parcel Service (UPS) and the U.S. Postal Service (USPS) to determine whether a systematic effort to increase Amtrak's market share of mail and express traffic would offer potential improvements in Amtrak's net revenues and profitability. The Council understands that separate income statements for M/E were not prepared and are not available for past periods. The Council, however, requested that Amtrak provide information on the historical and anticipated profitability of the M/E business.

Predicated on Amtrak's confirmation that the M/E business is sufficiently profitable to warrant the investment and other resources needed, the Council tentatively recommended that Amtrak should take prompt and effective action to do the following:

- Assist in increasing revenues by augmenting its M/E intermodal staff, either through contracting or hiring, with high-quality personnel;
- Add appropriate M/E equipment to its fleet through the most cost-effective and flexible mechanisms possible, such as: conversion of existing Amtrak equipment, using equipment from other railroads, short-term leasing of equipment, or having customer's firms provide or help finance the equipment; and

- Set up the M/E business as a separate strategic business unit for planning and financial reporting purposes, with transparent accounting of its revenues and expenses, including clear distinctions and accountability for both M/E functions.

Northeast Corridor (NEC) Fixed Plant

The condition of the fixed plant of the NEC is critical to the ability of the new Acela Express equipment to operate at design speeds, which is essential if Amtrak is to optimize Acela's ridership and financial benefits. Substantial sums – perhaps as much as \$5-7 billion according to the Department of Transportation – are needed for the replacement and upgrading of aging systems (such as electrification south of New York and improvements to signaling and communications) and the renewal of major infrastructure (such as the eastern approaches to Penn Station in New York). This is in addition to the ongoing requirements for normalized maintenance of track, structures, bridges, tunnels electrification, communications and signaling. The Council believes that Amtrak must give special attention to planning and executing capital programs to maintain and improve the NEC fixed plant.

While we are sure that these facts are well known to the Corporation and its NEC Business Unit, we believe that in order to make the size and scope of these issues clearer to, and more tractable for, Amtrak's Board and the Congress, that the operations of the NEC fixed plant should be set up as a profit center (not necessarily organizationally separated, however) within the NEC Business Unit. Amtrak should take the minimal steps necessary to permit the development of a clear and accurate income statement, balance sheet, and capital plan for the NEC fixed plant, and these documents should be integrated into Amtrak's five-year strategic business plan, and into the normal business planning process.

Plans of Corrective Actions in Strategic Business Plan

The Acela Express delay has demonstrated clearly that, as in any business, there is a substantial potential that unforeseen or uncontrollable events will have major consequences upon the timing of Amtrak's forecasts for improvements in net revenues associated with operations. Recent reports by the DOT IG and the GAO assessed Amtrak's current and projected financial performance based on thorough analyses of the Strategic Business Plan dated October 13, 1998 for FY 1999 through FY2002. Both analyses identified significant levels of risk (of non-achievement) associated with Amtrak's forecasts of improved revenues and reduced costs for a number of planned actions.

The Council recommended that Amtrak should, as part of its normal strategic and annual business planning processes, identify risks of not achieving its business plan objectives along with opportunities to exceed its business plan objectives. Once the risks and opportunities have been identified, Amtrak should develop, as part of its normal business planning processes, plans of corrective action, which are approved by its management and Board as part of the overall business plan, and which Amtrak's management will be ready to implement without the need for further Board approval, should the risks of not achieving its business plan objectives be realized.

Annual Cost Savings Goals

Based on the Council's research, Amtrak's unit cost structure must become competitive with private sector companies, such as the airlines, if it is to retain and expand its net revenues from the commuter and subsidized intercity passenger business. Amtrak's Board and management should, therefore, reassess the potential for annual savings from reductions in Amtrak's corporate overhead, strategic business unit staff overhead, and staffing of stations and operating business units. As part of this assessment, Amtrak must establish a clear process for benchmarking the size of Amtrak's corporate overhead compared to the corporation's overall business volume, and implement a plan to meet these benchmarks.

Most large private corporations in the United States regularly set and achieve annual corporate objectives of improving productivity by some minimal amounts not tied to specific capital expenditures, typically in the range of 3 to 5 percent annually.¹⁰ While goals of 3 to 5 percent annually may seem small, if applied year after year over several years, they will lead to significant productivity gains.

Minimum Business Plan Objectives (MBPOs)

Amtrak's Strategic Business Plan should identify readily measurable, key business plan objectives, including service objectives, operating objectives and financial objectives, for each year of its five-year Strategic Business Plans. MBPOs, should include, but not be limited to: measures of productivity; operating cost ratios; safety measures; and overall financial performance. The MBPOs should, to the extent possible, be based on unit measures, to permit benchmarking in order to measure progress.

Ideally, Amtrak should develop appropriate MBPOs, such as benchmarks of productivity, incorporate those objectives or benchmarks into its Five-Year Strategic Business Plan, and then report the corporation's actual financial and operating performance against those objectives in its next year's Strategic Business Plan.

The final section of the report describes the issues and concerns of the Council in this its first Annual Report and outlines the topics that the Council will address in the upcoming calendar year.

¹⁰ In public news reports over the past several months, major successful corporations such as Boeing and IBM have announced ongoing and special cost reduction measures to offset lower-than-expected earnings in various sectors of their businesses. The Council believes that in Amtrak's current financial straits, similar measures are warranted.

V. ISSUES AND NEXT STEPS

This assessment of Amtrak's general performance and its progress in meeting the financial performance goals of the ARAA is intended to highlight key issues for the Congress in order to foster public discussion and debate. Looking at such issues now will permit a thorough public airing, and thus allow for more coherent public policy development, should the Congress determine that changes need to be made. Indeed, the Council believes that its mandate to improve passenger service requires that it recommend any fundamental improvements it believes necessary in the structure of rail passenger service at the earliest possible date. Waiting to make such structural recommendations only in the context of a negative financial performance finding, were such a finding called for, limits the time for public debate, and risks forcing major public policy decisions in a curtailed time-frame.

This concluding section of the report sets forth issues the Council has identified, and describes the Council's expected activities in the coming year.

A. ISSUES

The Council believes that intercity rail passenger service, in our country's longest sustained period of economic expansion, is not growing and improving as it should. Amtrak in 1998 did not carry an appreciably different number of passengers than it did in 1990, and its service levels have essentially remained static during this period. If intercity rail passenger service is to thrive, what steps might be taken? The following questions should be thoroughly examined as part of any serious effort to improve Amtrak and rail passenger service in America, which is both the principal objective of the ARAA and the principal focus of the Council's efforts.

- Is Amtrak's institutional structure well suited to its task of providing high-quality intercity service for rail passengers?
- If not, what can we learn from the structural models used in other industries or other countries to determine possible improvements that could be introduced into the structure of rail passenger service in the US?
- How can rail passenger service be made more responsive to the marketplace?
- Does Amtrak's effective monopoly over the provision of intercity rail passenger service promote delivery of the most efficient and economical service?
- If not, what changes could be used to introduce competition into the provision of rail passenger services, as the ARAA permits?
- If competition is not introduced, what is the implication for public funding requirements?

- In the funding context, the following issues need to be raised:
 1. Has the funding for operating and capital needs been adequate?
 2. If not, by how much, over what period, and for what purposes has it been inadequate, and for what purposes should Congress provide additional funds?
 3. Should the future funding be for just capital investments, or will operating subsidies also be required?
 4. What means should be used to ensure that future funding mechanisms incorporate transparency and accountability?
 5. To what extent should future funding mechanisms promote competition in the provision of rail passenger services?

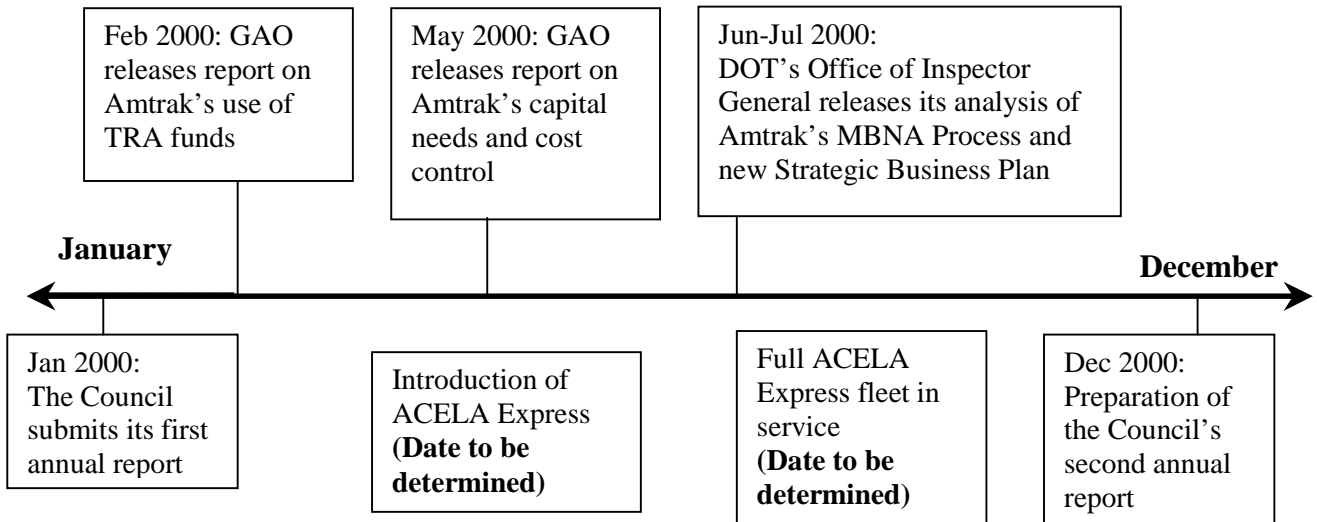
B. NEXT STEPS

It is against this background that the Council will look further into key issues and will publish interim reports, as appropriate, over the coming year. Specifically, the Council expects, among other issues, to address the following matters:

- Amtrak's capital structure, to include issues pertaining to the liquidation of the common and preference shares, the re-capitalization of the corporation, and the treatment of the US Government's mortgage lien on the NEC.
- Potential improvements in the structure for providing financing for the federal investment in Amtrak and intercity rail passenger service, including assessments of current legislative proposals for providing capital through appropriated funds and through bonds to be issued by Amtrak.
- Options for exercising the provisions of existing law that permit the introduction of competition into the provision of intercity rail passenger service.
- Possible improvements in Amtrak's financial reporting requirements, to include its train operations, the NEC fixed plant, and its Mail and Express services.
- Changes in institutional structure that might improve the quality, economy, and efficiency of intercity rail passenger services in the US, to include examination of other industries, including rail commuter authorities, and structures for operating passenger services used in other countries.

The time line below indicates key dates in the year 2000 for the issuance of reports and the introduction of Acela Express service in the NEC.

TIMELINE FOR CALENDAR YEAR 2000
(dates are approximate and subject to change)



This concludes the Council's first Annual Report for calendar year 1999. The Council expects, as part of its work program, to release topical reports from time to time as more information becomes available. When such reports are released, information regarding their content and date of release will be published via press release, available on the website (www.amtrakreformcouncil.org), or from the Council's office in Washington.

APPENDICES

A. A BRIEF HISTORY OF THE AMTRAK REFORM COUNCIL

In December of 1997, the United States Congress passed and the President signed into law *The Amtrak Reform and Accountability Act of 1997 (P.L. 105-134)* (the ARAA) which created the Amtrak Reform Council (Council). The Council is an independent federal commission made up of eleven members appointed by either the President or the Congressional leadership. These eleven members were to be individuals with expertise in transportation issues. [See Council members Biographies Appendix C.)

Not only did the ARAA create the Council, but it also required the appointment of a new Amtrak Board of Directors and development of a new Amtrak Strategic Business Plan (Plan). The Council held its first meeting on May 26, 1998, with a gathering of the eight then-appointed Council members, and found that it had an operating budget for FY1998 of only \$50,000. The Council began by agreeing on an approach to its work program and then prepared a budget request to the Congress. At this meeting, the Council elected Governor Christine Todd Whitman of New Jersey as the Chair and Paul Weyrich as the Vice-Chairman.

While the appointment of Council members was being completed and the Council was organizing its operations, Amtrak was undergoing a period of fundamental change. Its new Board of Directors was proposed for Senate confirmation in late Spring, a new top management was recruited, and its Strategic Business Plan required major revision to accommodate the financial performance goals of the ARAA.

In October of 1998, the new Amtrak Board of Directors approved a reworked Strategic Business Plan, which provided the Council for the first time with a document that could be evaluated against the goals of the ARAA. To enable the Council to carry out its responsibilities, using consultants for research, analysis, and staffing, Governor Whitman shortly thereafter sent to Congress a FY1999 budget request for the Council of \$1.9 million. When Congress approved a budget of \$450,000, with the provision that the Council could not hire consultants, Governor Whitman resigned from the Council. At its next meeting, in November 1998, Vice-Chairman Weyrich, acting as Chair, proposed that the Council hire a staff. In addition, he proposed that the Council inform the President and Congress that, due to its lack of substantive activities on which to report, the Council would not send a 1998 Annual Report to Congress. The Council approved these proposals.

With all the current Council members in place, in January 1999, the Council met and elected a new Chairman, Gilbert Carmichael, a former Federal Railroad Administrator, and re-elected Paul Weyrich as Vice-Chairman. The Council asked Mr. William Loftus to assist the Council in getting its offices established and to assist in staffing the Council. He secured office space and equipment for the Council in the Department of Transportation headquarters building. He also assisted the Council in the search process for candidate staff members.

In early March of 1999, Thomas Till was hired as the Council's Executive Director. At the next Council business meeting on March 15, 1999, the Council approved the Executive Director's proposal for staffing and for a preliminary work program for the Council, and discussed the submission of a budget request to the Congress. The Chairman subsequently submitted to the Congress a proposed Council budget of \$1.3 million for FY1999, and requested Congress to lift the restrictions against hiring consultants.

On April 26, 1999, the Council began the implementation of its work program by holding its first outreach program in Philadelphia. The Council had approved a work program that would permit the Council to learn firsthand about the complexities and difficulties facing a national rail passenger system by traveling to various locations throughout the country and inviting the states and other involved agencies to discuss these issues. This first outreach hearing focused on major issues regarding Amtrak's operations on the NEC from Washington, DC, to Boston. The Council invited Amtrak, each of the State DOTs along the NEC, and the commuter and freight railroads that share its use, to express their views on current and future issues facing the NEC.

On May 18, 1999, the Council organized a seminar in Washington, DC, on the "Past, Present, and Future of Intercity Rail Passenger Service," with various experts on developments in rail passenger service. These included a team of executives from Amtrak, an alumnus of the Department of Transportation team that planned Amtrak's original route system, and experts in rail policy and planning who discussed the trends in organization, management and funding of rail passenger service throughout the world.

In Charlotte, NC, on June 29, 1999, the Council held its second outreach hearing for the Southeastern States, using the same basic format as in Philadelphia. At the business meeting that followed, the Council discussed their work plan, approved conflict of interest guidelines for Council members, and approved the structure and membership of the Council's four committees (Organization and Management, Financial Analysis, Rail Passenger Network, and Productivity).

The Council's next business meeting in Seattle, WA, on the morning of August 31, 1999, was scheduled to coincide with an afternoon Hearing of the House Transportation & Infrastructure Committee Subcommittee on Ground Transportation, before which the Chairman testified. In its business meeting, the Council approved a budget proposal for FY2001 of \$1.4 million. Also, the Council heard presentations from Oregon and Washington State DOTs regarding intercity rail passenger service in their states.

In October 1999, the Council held an outreach hearing in Chicago to discuss, among other items, the Mid-West Regional Rail Initiative with the states and other parties involved with this major project. The following day, the Council held a business meeting to discuss issues to be addressed in its Annual Report to be presented to Congress in January 2000. Also discussed was the Council's FY2000 budget which had been approved by Congress and the President at a level of \$750,000 without any restrictions on the use of consultants. The Council then authorized the Executive Director to spend up to \$100,000 on consultants, with each expenditure to be approved by the Chairman.

Also in October 1999, the Executive Director testified for the Council before the House Transportation & Infrastructure Committee Subcommittee on Ground Transportation along with members of the Amtrak Board of Directors (renamed the Amtrak Reform Board; the General Accounting Office, Office of DOT Inspector General, and several others regarding the feasibility of Amtrak obtaining the goals that were set under the ARAA.

On November 8, 1999, the Council held a South/South Central States outreach hearing in Dallas, TX, with Senator Kay Bailey Hutchison as the Keynote Speaker. The Council did not hold a business meeting in Dallas. This meeting was the last public meeting for Calendar 1999. In the months that followed, Council members and staff compiled confidential data from Amtrak, information from our outreach hearings, and expertise from the individual Council members and various federal government agencies to draw some conclusions about Amtrak that were written into this Report.

B. LEGAL MANDATE FOR THE COUNCIL

The statutory provisions establishing the Council are based on Sec. 203 and Sec 204 of the *Amtrak Reform and Accountability Act of 1997* (P.L. 105-134). Section 203 establishes the Amtrak Reform Council (ARC) as an independent federal commission of 11 members. The duties of ARC are to (A) evaluate Amtrak's performance; (B) make recommendations to Amtrak for achieving further cost containment and productivity improvements and financial reforms; and (C) identify Amtrak routes which are candidates for closure or realignment, based on performance ranking developed by Amtrak. [N.B. requirement (C) was added by section 349 of the Fiscal Year 1999 Omnibus Appropriations Act and continued in Sec. 331 of the Fiscal Year 2000 Omnibus Appropriations Act]. If, after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, Amtrak shall report quarterly to the ARC: (A) the savings realized as a result of the agreement; and (B) how the savings are allocated. Each year before December 2, 2002, ARC shall submit a report to Congress that includes an assessment of: (1) Amtrak's progress on the resolution of productivity issues; (2) the status of those productivity issues, (3) Amtrak routes which are candidates for closure or realignment and (4) recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

Section 204 states that if at any time more than two years after December 2, 1997, and implementation of the financial plan referred to in section 24101(d), ARC finds that: (1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 24101(d); or (2) Amtrak will require operating grant funds after Fiscal Year 2002, ARC shall immediately notify the President and Congress. Within 90 days after ARC makes a finding: (1) it shall develop and submit to Congress an action plan for a restructured and rationalized national intercity rail passenger system; and (2) Amtrak shall submit a plan for the complete liquidation of Amtrak.

C. BIOGRAPHIES OF AMTRAK REFORM COUNCIL’S MEMBERS AND STAFF

Members of the Council and Their Source of Appointment

Gilbert E. Carmichael, Chairman	Majority Leader of the Senate
Paul M. Weyrich, Vice Chairman	Majority Leader of the Senate
Bruce Chapman	Speaker of the House
Wendell Cox	Speaker of the House
Christopher K. Gleason	Speaker of the House
S. Lee Kling	Minority Leader of the House
Clarence V. Monin	The President
Hon. John O. Norquist	The President
Hon. Rodney E. Slater	Ex Officio
Donald R. Sweitzer	Minority Leader of the Senate
Joseph Vranich	Majority Leader of the Senate

Gilbert E. Carmichael (Chairman) – is a leading international authority on railroad and intermodal transportation policy. Appointed to the National Transportation Policy Study Commission by President Ford during the Energy Crisis, he chaired its subcommittee on advanced technology and later served as Federal Railroad Administrator under President Bush. Currently, he is the Chairman of the University of Denver's Intermodal Transportation Institute. Majority Leader Trent Lott appointed him to the Council, of which he is the Chairman.

Paul M. Weyrich (Vice Chairman) – has been a reporter, editor, publisher, staff assistant for the Senate Transportation Appropriations Subcommittee, and has served on various boards regarding rail issues for many years. These include: the Dulles Corridor Transit Citizens Advisory Committee and the Dulles International Airport Light Rail Task Force, which he chaired. He also served as Member of Board of Directors of Amtrak. Currently, he is President and Founder of Free Congress Foundation, a public policy think tank. He was appointed to the Amtrak Reform Council by Majority Leader Trent Lott and elected Vice Chairman by the Council.

Bruce Chapman – has had an extensive career specializing in public policy development. He has served as a Seattle City Council member, Washington State Secretary of State, Director of U.S. Census Bureau, Deputy Assistant to President Reagan as Director of White House Planning and Evaluation, and U.S. Ambassador to the U.N. organization in Vienna. In 1990, he founded the Seattle-based Discovery Institute, a public policy center on national and international affairs. He was appointed to the Council by House Speaker Newt Gingrich.

Wendell Cox – is a consultant on public transport issues both in the U.S. and internationally. He served as member of the Los Angeles County Transportation Commission for both highway and public transport. Afterwards, he established the Wendell Cox Consultancy, a firm specializing in international public policy and demographics. He has advised governments in the United States, Canada, New Zealand, Australia and Europe on the design of competitive public transport service delivery. House Speaker Newt Gingrich appointed him to the Council.

Christopher K. Gleason – is a financial analyst who is the president of a family-owned financial services company and also an expert on state and federal transportation issues. He has served on the National Motor Carrier Advisory Committee and on the Commercial Space Transportation Advisory Committee. He was appointed to the Amtrak Advisory Group (the Blue Ribbon Panel) established by the House Transportation and Infrastructure Committee. He was appointed to the Council by House Speaker Newt Gingrich.

S. Lee Kling – has held an executive position as Chairman of a commercial banking company and is a senior partner in a merchant banking firm, and has extensive experience serving on government commissions. He has served as Finance Chairman of the Democratic National Committee and also served as National Treasurer of the Carter-Mondale Re-election Committee. President Clinton appointed him as a Commissioner on the Defense Base Closure and Realignment Commission. He chairs the Missouri Highway and Transportation Commission, and Minority Leader Richard Gephardt appointed him to the Council.

Jolene M. Molitoris – is the first female Administrator of the Federal Rail Administration, an agency of the U.S. Department of Transportation. In that position, she is responsible for the regulation and enforcement of all aspects of safety on the Nation's rail system, federally-funded rail research and development, and represents Secretary Slater on the Amtrak Board of Directors. She has also served in a number of management positions with the Ohio Department of Transportation and as Executive Director at the Ohio Rail Transportation Authority where she managed all freight and passenger railroad programs in the State. She was appointed by Secretary of Transportation Slater to serve as his alternate on the Council.

Clarence V. Monin – is a locomotive engineer and labor union representative who has had a long career working on issues affecting the railroads. He began his career as a trainman, then as an Apprentice Engineer and ultimately became a locomotive engineer. He joined the Brotherhood of Locomotive Engineers (BLE) and served as a Local Chairman in Louisville, Kentucky, then as General Chairman of Kentucky. He was elected to the BLE's national organization as Vice President, then served as First Vice President and, until recently, as the International President of the BLE. President Bill Clinton appointed him as the labor representative for the Council.

John O. Norquist – is serving his third term as the mayor of Milwaukee, Wisconsin, one of the country's growing cities. He is the author of *The Wealth of Cities* a book on urban design, government efficiency and educational issues. He has been an Adjunct Professor at University of Wisconsin-Milwaukee School of Architecture and Urban Planning. He chaired the National League of Cities Task Force on Federal Policy and Family Poverty. He was appointed by President Bill Clinton to the Council.

Rodney E. Slater – is the Secretary of Transportation. He formerly served as the Administrator of the Federal Highway Administration. In Arkansas, he held several positions including membership on the Arkansas State Highway Commission, Director of Governmental Relations at Arkansas State University, Assistant Attorney General-Litigation Division of the Arkansas State Attorney General's Office. He is an Ex Officio member of the Council who represents the interests of the Administration.

Donald R. Sweitzer – is a public policy consultant with more than twenty years of government relations consulting services. He was president of the Dorset Resource and Strategy Group, a public affairs consulting firm, before joining GTECH as Senior Vice President of Government Relations. Senate Minority Leader Tom Daschle appointed him to the Council.

Joseph Vranich – has worked in the transportation sector for the last three decades as both a public relations spokesman and association executive. He served as the press spokesman for Amtrak, and as Executive Director of National Association of Railroad Passengers. He also worked for High Speed Rail Association first as a consultant, then as President/CEO. His writings include the books: *Supertrains: Solutions to America's Transportation Gridlock* and *Derailed: What Went Wrong and What to Do About America's Passenger Trains*. He was appointed to the Council by Majority Leader Trent Lott.

The Council's Staff

Executive Director	Thomas A. Till
Senior Financial Analyst	Michael A. Mates
Counsel	Kenneth P. Kolson
Intergovernmental and Public Relations	Deirdre O'Sullivan
Administrative Assistant	Stacy Murphy

Thomas A. Till, Executive Director - Most recently a Senior Banker in the Transport Department of the European Bank for Reconstruction and Development, managing railway investment projects in Ukraine and Uzbekistan. Previously, an investment project manager for the World Bank, a transportation consultant, and Deputy Federal Railroad Administrator (1982-1984).

Michael A. Mates, Senior Financial Analyst - Most recently, Chief Financial Officer of a Washington, DC-area real estate development firm. Previously Deputy Director of the Chrysler Corporation Loan Guaranty Board, Director of Financial Analysis for the United States Railway Association, and a Principal with a transportation consulting firm and a financial advisory firm.

Kenneth P. Kolson, Counsel - Most recently an attorney in private practice. Previously a Senior Attorney for the Association of American Railroads, and attorney with the Interstate Commerce Commission and the Department of Justice.

Deirdre M. O'Sullivan, Public and Intergovernmental Affairs - Most recently employed by the Free Congress Foundation, and previously was employed at National Journal, a political magazine.

Stacy Murphy, Office Administrative Assistant – Previously employed by the Treasury Department and in private industry.

D. PRELIMINARY INFORMATION ABOUT USE OF TAXPAYER RELIEF ACT FUNDS

The Council has a statutory responsibility to monitor Amtrak's expenditures funded by special tax refunds authorized by Section 977 of the Taxpayer Relief Act of 1997 (TRA) in November 1997. Approximately \$2.184 billion¹¹ of TRA funds for defined qualified investments were made available with the passage of reauthorization legislation for Amtrak in November 1997 and the passage of the ARAA (which was a precondition for release of funds to Amtrak under the TRA).

Qualified expenditures under TRA include "the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail service" and "the payment of interest and principal on obligations incurred for such acquisition, upgrading, and maintenance" after September 30, 1997.

Within the broad range of capital investments allowed by the TRA legislation, Amtrak stated its intention to target TRA funds for capital projects that yield a high rate of return. Amtrak developed an investment policy guideline internally for TRA expenditures that established the following priorities for such investments:

1. State or local projects leveraged greater than 3 to 1. That is, Amtrak hopes to increase state and local participation in capital improvement projects by agreeing to "partner" or share in the costs with state and local entities on projects of mutual benefit.
2. Projects with a high return on investment (internal rate of return greater than 15 percent or operating impact greater than \$25 million over the business plan period);
3. State or local projects leveraged less than 3 to 1;
4. Key tactical projects (preliminary engineering, operational);
5. Legal mandates (Americans with Disabilities Act station and rolling stock improvements, and environmental cleanup); and
6. Capital maintenance.

The legislative intention of Section 977 of the TRA was to make significant amounts of funding available so that Amtrak could make investments in high priority, high return capital projects that would facilitate Amtrak's ability to operate without federal government operating subsidies. However, the above policy guidelines do not ensure that TRA funds are only used on high return capital investments. For example, the first priority of making investments in which there is "State or local projects leveraged greater than 3 to 1" does not preclude Amtrak from making TRA-funded investments in low return (or no return) projects as long as states or local government funds provide at least \$3 for every \$1 provided by Amtrak. Certain TRA expenditures in studies of emerging high speed corridors clearly meet the matching criteria, but there is no assurance that such expenditures will have a positive financial impact on Amtrak, particularly by FY2003, when Amtrak needs to cover its operating requirements without federal operating subsidies. Additionally, the last category, "capital maintenance," refers to maintenance of capital assets which Generally Accepted Accounting Principles (GAAP) treat as an operating expense since such expenditures merely preserve capital assets in their current condition rather than making the assets better or extending their economic lives beyond the lives the assets would have with regular maintenance.

¹¹ A maximum of \$2.324 billion of TRA funds were authorized, but approximately \$140 million of such funds are required by statute to be passed through by Amtrak to states without Amtrak service, leaving approximately \$2.184 billion of TRA funds for Amtrak investment.

Although the ARAA gave the Council responsibility for monitoring Amtrak's expenditure of TRA funds, the lack of the Council staff until the spring of 1999 coupled with the complexity and number of projects for which Amtrak is using TRA funds (more than 81,000 transactions have been recorded as TRA funded projects through June 30, 1999) motivated a Congressional request to the General Accounting Office (GAO) to conduct a review of Amtrak's TRA expenditures, which the GAO anticipates will be completed in February 2000.

Because the TRA expenditures are so intrinsically related to Amtrak's operating maintenance expenditures and regular capital expenditure programs, monitoring the use of TRA funds requires a full scope audit of Amtrak's maintenance and capital expenditure process and a thorough review of Amtrak's financial information system. Such a major review and auditing task was more appropriately delegated initially to the GAO, which has assigned for several months a team to review and report on the TRA expenditures that is comparable in size to the size of the Council's entire staff.

The GAO is not intending to conduct future reviews and audits of TRA expenditures made after June 30, 1999. If TRA expenditure reviews or audits are desired for periods after June 30, 1999, either the Council needs to receive a significant increase in authorized and appropriated funds to engage an independent certified public accounting firm to do such a limited scope audit and review on behalf of the Council, or a formal request has to be made to Amtrak to have its independent certified public accounting firm do a special, limited scope review and report addressed to the Council on the TRA expenditures as part of its overall FY2000 audit of Amtrak.

Summarized below are Amtrak's capital investments by policy criterion and funding source for FY1999. As indicated, the October 12, 1998 Strategic Business Plan anticipated that approximately 63% of the \$758 million of TRA funds to be used in FY1999 would be devoted to high Return On Investment (ROI) projects. Counting all capital funds including outside financing, such high ROI projects were anticipated to represent approximately 52% of the approximately \$1.4 billion of total capital expenditures that Amtrak anticipated making in FY1999.

The GAO report due in February 2000 will analyze actual Amtrak expenditures versus the expenditures projected in Amtrak's October 12, 1998 Strategic Business Plan.

Fiscal Year 1999 Capital Investments By Policy Criterion And Funding Source

(From Amtrak's Strategic Business Plan, FY1999-2002, Dated October 12, 1998) (Dollars)

Investment Policy Criteria	TRA	State/ Leveraged	General Capital	Re- programmed	FY98 Matching Funds	Financing	Total
Mandatory Projects	28,880,630	0	49,250,000	130,000	0	0	78,260,630
Projects Leveraged > 3:1	0	222,483,000	0	0	14,243,000	4,900,000	241,626,000
High ROI Projects	476,760,000	8,000,000	0	11,896,753	0	232,685,900	729,342,653
Projects Leveraged < 3:1	29,517,000	44,436,000	0	5,750,000	757,000	5,500,000	85,960,000
Key Tactical Projects	223,155,000	28,000,000	750,000	19,587,000	0	0	271,492,000
Total	758,312,630	302,919,000	50,000,000	37,363,753	15,000,000	243,085,900	1,406,681,283

Percentages Of Categories Above

Investment Policy Criteria	TRA	State/ Leveraged	General Capital	Re- programmed	FY98 Matching Funds	Financing	Total
Mandatory Projects	3.81%	0.00%	98.50%	0.35%	0.00%	0.00%	5.56%
Projects Leveraged > 3:1	0.00%	73.45%	0.00%	0.00%	94.95%	2.02%	17.18%
High ROI Projects	62.87%	2.64%	0.00%	31.84%	0.00%	95.72%	51.85%
Projects Leveraged < 3:1	3.89%	14.67%	0.00%	15.39%	5.05%	2.26%	6.11%
Key Tactical Projects	29.43%	9.24%	1.50%	52.42%	0.00%	0.00%	19.30%
Total	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Amtrak's report of its TRA expenditures through June 30, 1999, is summarized below.

Summary Table Of TRA Fund Allocations Inception Through June 30, 1999

	<u>Dollars</u>	<u>Percentages</u>
Total TRA Funds Available	\$2,323,000,001	
Less: Payments to Non-Amtrak States Required By Law	(\$139,380,000)	
Net TRA Funds Available To Amtrak	\$2,183,620,001	100.00%
Cash Drawn For Approved TRA Capital Projects	\$912,890,396	41.81%
Interest Income On TRA Funds	(\$51,008,122)	-2.34%
Unrealized Gain/(Loss) To Date	\$5,918,002	0.27%
Loan For Capital Maintenance (Repayment FY2000)	\$412,000,000	18.87%
Balance As Of 6/30/99	\$903,819,725	41.39%
	\$2,183,620,001	100.00%

In the interest of minimizing management burdens to Amtrak and minimizing oversight costs to the taxpayers, the Council has relied upon the TRA monitoring work and analysis that has been done by the GAO and by the Department of Transportation's Office of the Inspector General (DOT IG), which has, with outside contractors, expended approximately \$2 million in Amtrak oversight and analysis during the past approximately two years. The DOT IG's July 21, 1999 "Report on the 1999 Assessment of Amtrak's Financial Needs Through Fiscal Year 2002" provided the following summary of intended uses of TRA Funds from 1998 through 2001.

Intended Uses Of TRA Funds From 1998 To 2001 (\$ Millions)

1998		1999		2000		2001		TOTAL
		1998 TRA Balance Carry-over	\$434	1999 TRA Balance Carry-over	\$491	2000 TRA Balance Carry-over	\$0	
First Installment	\$1,162	Second Installment	\$1,162					\$2,324
Pass-through to non-Amtrak States	(\$70)	Pass-through to non-Amtrak States	(\$70)					(\$140)
Interest earned on TRA	\$0	Interest earned on TRA	\$35	Interest earned on TRA	\$35	Interest earned on TRA	\$15	\$85
TRA capital projects	(\$558)	TRA capital projects	(\$758)	TRA capital projects	(\$716)	TRA capital projects	(\$237)	(\$2,269)
Borrow for capital maintenance	(\$100)	Borrow for capital maintenance	(\$312)	Repay borrowed funds	\$190	Repay borrowed funds	\$222	\$0
Balance	\$434	Balance	\$491	Balance	\$0	Balance	\$0	\$0

As indicated on the above chart, in FY1998, of the \$1.162 billion first installment of TRA funds which Amtrak received, Amtrak committed \$558 million to TRA capital projects; it passed through, as provided by law, approximately \$70 million of TRA funds to states that do not receive Amtrak service; and it borrowed \$100 million, which Amtrak intends to repay by 2001. In FY1999, the second installment of \$1.162 billion was received, of which approximately \$70 million was passed through to states that do not receive Amtrak service; approximately \$758 million was anticipated to be committed to TRA capital projects (discussed previously); and approximately \$312 million is anticipated to be borrowed, which Amtrak intends to repay by 2001.

For the period 1998 through 2001, Amtrak anticipates committing \$2.269 billion to TRA capital projects; passing through approximately \$140 million to States with no Amtrak service; earning approximately \$85 million interest on TRA funds until they are expended; and fully repaying by 2001 the approximately \$412 million of TRA funds that are anticipated to be borrowed during 1998 and 1999.

Although Amtrak's official position is that the TRA funds borrowed will be repaid, the DOT IG has publicly stated at a regional outreach meeting of the Council that Amtrak has the authority under the TRA to re-designate the amounts borrowed as amounts paid for equipment repair expenditures and debt service (both allowable expenditure categories for TRA funds), which would eliminate the need for Amtrak to repay such TRA funds. The risk of re-designating historical equipment expenditures as qualified TRA fund uses is that there will be fewer capital dollars available to Amtrak to make the high-return capital expenditures that the TRA funds were intended to finance. This obviously will mean that additional sources of capital must be made available to finance capital investments essential to retaining and improving existing services while enhancing Amtrak's prospects of becoming more profitable.

E. LABOR PRODUCTIVITY TABLE FROM AMTRAK

Below is a two page fax sent to the Council on November 15, 1999 regarding Amtrak's FY1999 Report on Productivity Improvements and Work Rule and Cash Savings.

NOV-15-99 MON 17:14

AMTRAK GOVT&PUB AFFAIRS

FAX NO. 2029063995

P. 01/02

National Railroad Passenger Corporation, 65 Massachusetts Avenue, N.E., Washington, DC 20002 Telephone (202) 808-3008



November 15, 1999

Mr. Ken Kolson
Attorney Advisor
Amtrak Reform Council
Room 7105
400 7th Street, SW
Washington, DC 20590

Dear Ken:

Enclosed is the FY1999 report on Productivity Improvements and Work Rule and Cash Savings. We have organized this information on a quarter-by-quarter basis for you. In addition, the total amount of \$19.5 million in savings for FY 1999 is expected to be revised upward slightly when we receive the final details in a few remaining work-rule areas. I will send you the final FY 1999 information when it is complete.

If you will recall, on page forty-four of the FY 1999 Amtrak Business Plan Summary, Amtrak estimated \$21 million in savings would be realized across all unions and crafts in FY1999. This number included \$3.1 million of expected savings from a finalized UTU agreement. However, since we just recently completed our negotiations with the UTU and with ratification occurring only a few weeks ago, the \$3.1 million savings will now be achieved in FY2000. Even without this \$3.1 million, we expect that our final FY1999 number will be very close to the savings we predicted last year.

We will continue to update you on a regular basis with these savings, and as with the TRA quarterly report, we would welcome your suggestions for improvements to this format or any other information you receive.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe McHugh".

Joe McHugh
Director, Government Affairs

Enclosure

Value of Productivity Improvements and Work Rule and Cash Savings from post - January 1, 1997 Labor Agreements

	1st Qtr	2nd Qtr	FY99 3rd Qtr	4th Qtr	Total*
Savings	\$3.7M	\$5.8M	\$6.6M	\$3.3M	\$19.5M

*Preliminary. Savings include wage and rule agreements as well as Reservations Agreement. UTU Agreement not included.

11/8/1999

F. A PRELIMINARY DESCRIPTION OF MARKET BASED NETWORK ANALYSIS (MBNA)

Identifying the most promising improvements in operations and revenue enhancements requires sophisticated analyses of Amtrak's existing train service and could well call for the establishment of new transportation services. The MBNA Financial Model was developed to calculate Amtrak's variable costs on a route-by-route basis and couple such variable cost analysis with market-driven actual and potential demand for rail passenger transportation to determine incremental profitability of routes.

Potential revenue "packages" of rail passenger demand were developed with an outside consulting firm with expertise in passenger transportation demand. Demand for possible rail "packages" of projected ridership and revenue on existing and potential routes were then input into the MBNA Financial Model, which applies route specific characteristics, including unit costs, to generate profit/loss statements by route and train. These analyses were used to identify a more profitable route network and operating plan, which are anticipated to be incorporated in Amtrak's developing Strategic Business Plan, for FY2000-20004 which was approved by Amtrak's Board on December 8, 1999.

The MBNA analysis is anticipated to be a significantly more useful planning tool than planning tools previously available to Amtrak management. Amtrak historically measured financial performance of its trains, routes, strategic business units, and overall corporate performance using Amtrak's Financial Information System ("FIS") as the starting point for direct costs and other costs that had to be allocated back to trains based on operating statistics judged appropriate for such allocations. The process of allocating indirect costs back to specific trains captured all of the operating and overhead costs, but the results of the previous Route Profitability System ("RPS") were not useful for decision making purposes since the RPS allocates historical variable and fixed costs across the existing route structure and was not developed as a planning tool which would quantify the marginal changes in expenses that would result from specific changes in train schedules, numbers of available seats, frequency and other variables important in making management decisions.

RPS functions best not as a management tool, but as a billing (or full cost allocation) mechanism based on the existing network and train schedule and historical costs to fully allocate Amtrak's variable and fixed costs back to its trains. Thus, the RPS at best provides historical route profitabilities calculated based on fully allocated costs and a fixed system network.

The MBNA tools included a number of elements:

- Market Research
- Analysis of existing network performance and characteristics
- Analysis of mail and express service lane potential
- Analysis of physical requirements for changes in train frequencies and speeds
- Construction of a new variable cost financial model (the MBNA Financial Model)
- Construction of an updated corridor demand model
- Construction of a new long-distance demand model
- Contribution analysis
- Train mix analysis

According to Amtrak, the MBNA Model has multiple uses:

- To test route and service changes and estimate financial targets associated with those changes;
- To test the assumptions and estimates of external studies (such as the Mid-West Railroad Initiative and other proposed new passenger corridor services); and
- Ultimately to be refined into a budget and business planning tool against which RPS can show actual performance, helping change the way Amtrak budgets from the current responsibility center focus to a product focus more like other companies, and helping move Amtrak toward activity-based budgeting and away from baseline budgeting (i.e., changes from recent historical performance).

The first results from the new MBNA Model analysis were presented to Amtrak's Board in June 1999. Additional short term results were presented to Amtrak's Board in July, and corporate planning staffs have been working with the Strategic Business Units to accommodate operations issues associated with implementing short term actions. Through the summer and fall, the corporate planning staffs have been working on developing longer term options, including high speed rail corridors, and incorporating the results of the MBNA analysis into Amtrak's Strategic Business Plan, which was initially anticipated to be approved by Amtrak's Board in September 1999 (with a likely October 1999 publication date), but was finally presented the Board for approval on December 8, 1999.

In May of 1999, Amtrak anticipated short-term network improvements from the MBNA analysis that were designed to achieve \$60 million in benefits by the end of FY2002. Amtrak's most recently available estimates of the impact of the MBNA analysis to "align network to meet customer demand" anticipates from FY1999 through FY2002 \$60 million additional revenues and \$45 million lower expenses, for a net positive impact of \$105 million. Until the results of the MBNA analysis are made available, however, there is no way to evaluate the likelihood of Amtrak achieving the profitability improvement projected previously, and there is no certainty that a comparable level of profit improvement will be incorporated in Amtrak's delayed FY2000 Strategic Business Plan.

Previous studies on Amtrak's route profitability suggest that most routes do not cover their operating costs, and none cover total costs if all capital costs including the cost of maintaining the rail assets in good repair are included. With such studies, one could hypothesize that the way to make Amtrak profitable is to cut back on the routes that lose the most, but unless fixed costs are also eliminated, cutting routes does not ensure Amtrak profitability. The Council holds the view that, while certain adjustments in Amtrak's routes and services may be necessary or desirable, Amtrak cannot, as a general policy, achieve financial self-sufficiency merely by trimming its network. Instead, Amtrak will need to adjust routes and fares based on through analyses, such as those reportedly made possible by MBNA, while also identifying and eliminating overhead costs that are being allocated back to passenger train operations.

G. RECOMMENDATIONS TO AMTRAK FOR IMPROVEMENTS

The Council has a statutory charge to evaluate Amtrak's operations and to make recommendations for improvement to the corporation, in order to assist Amtrak in its efforts to meet the goals of ARAA. With the delay in the introduction of Acela Express, Amtrak's need for improvement in near-to mid-term net revenues, which was already great, has been further exacerbated. In keeping with this mandate, the Council approved a number of recommendations and forwarded them to Amtrak's Board, in November 1999, for the Board's consideration.

The criterion for these recommendations was, and is, very simple: that they should reflect sound business policies whose implementation will assist the Board in making significant improvements in the financial and operating performance of Amtrak.

Mail & Express (M/E)

In mid-1999, the Council initiated discussions among the Council, Amtrak, and – in separate meetings – United Parcel Service (UPS) and the U.S. Postal Service (USPS). These meetings made it clear that a systematic effort to increase Amtrak's market share of mail and express traffic may offer potential improvements in Amtrak's net revenues and profitability. The Council further understands that additional meetings between Amtrak and UPS have confirmed the potential for substantial rapid growth of express revenues.

Before recommending that Amtrak significantly increase its M/E business, however, the Council requested that Amtrak provide information on the historical and anticipated profitability of M/E business. This request is based on the Council's understanding that separate, historical income statements for M/E were not prepared and are not available for past periods.

Predicated on Amtrak's confirmation that the M/E business is sufficiently profitable to warrant the investment and other resources needed, the Council tentatively recommended Amtrak should take prompt and effective action to do the following:

- Increase M/E revenues by augmenting its inter-modal staff, either through contracting or hiring, with high-quality personnel.
- Add appropriate M/E equipment to its fleet through the most cost-effective and flexible mechanisms possible, which might include (a) conversion of existing Amtrak equipment no longer suitable for carrying passengers, (b) using equipment owned by other companies which may be available on a traditional railroad per diem basis, (c) leasing equipment on a short term basis, and/or (d) having the firms desiring mail and express services lease, finance, or participate in the financing of, the needed equipment.
- Set up the M/E business as a separate strategic business unit for planning and financial reporting purposes, with transparent accounting of its revenues and expenses, including clear distinctions and accountability of M/E's (i) direct costs; (ii) costs of the route or region allocated to the M/E business; and (iii) system-wide overhead costs allocated to the M/E business.

The Council did not recommend, necessarily, that the M/E Group be removed organizationally from the Intercity Business Unit, nor that it be established as a corporate subsidiary within that unit. Amtrak's Board and management should decide the corporate structure and reporting relationship of M/E to other Amtrak strategic business units. The Council's interest is that M/E businesses have transparent accountability by being financially segregated from Amtrak's core passenger business units.

Consistent with the Council's request for additional financial information concerning M/E, Amtrak should immediately take at least the minimal steps necessary to permit the development of a clear and accurate income statement, balance sheet, and capital plan for the Mail and Express Group. These documents should be integrated into Amtrak's five-year strategic business plan, and into the normal business planning process.

NEC Fixed Plant

As the Council has learned about issues related to the operation of Amtrak's new Acela Express service, it has become clear that the condition of the fixed plant of the NEC, is one of the most critical factors that may limit the ability of the new equipment to operate at design speeds. Speed is a factor critical to optimizing the ridership and financial benefits to Amtrak from the Acela investment as well as maintaining existing train traffic on the NEC. There is a need for the expenditure of substantial sums for the replacement and upgrading of aging systems (such as electrification south of New York and improvements to signaling and communications) and the renewal of major infrastructure (such as the eastern approaches to Penn Station in New York). This is in addition to the ongoing requirements for normalized maintenance of track, structure electrification, communications and signaling. The Council believes that this situation requires that special attention be given to the planning and execution of capital programs to maintain and improve the NEC fixed plant.

While we are sure that these facts are well known to the Corporation and its NEC Business Unit, we believe that in order to make the size and scope of these issues clearer to, and more tractable for, Amtrak's Board and the Congress, that the operations of the NEC fixed plant should be set up as a profit center within the NEC Business Unit. At this point, the Council is not recommending that the NEC fixed plant be organizationally removed from the NEC Business Unit, but Amtrak should take the minimal steps necessary to permit the development of a clear and accurate income statement, balance sheet, and capital plan for the NEC fixed plant. These documents should be integrated into Amtrak's five-year strategic business plan, and into the normal business planning process.

Plans of Corrective Actions in Strategic Business Plan

The Acela Express delay has demonstrated clearly that, as in any business, there is a substantial potential that unforeseen or uncontrollable events will have major consequences upon the timing of Amtrak's forecasts for improvements in net revenues associated with operations. In mid-summer 1999, the Office of the Inspector General of the Department of Transportation and the General Accounting Office (GAO) released assessments of Amtrak's current and projected financial performance based on thorough analyses of Amtrak's October 12, 1998 Strategic Business Plan. Both of those analyses made it clear that there are significant levels of risk (of non-achievement) associated with Amtrak's forecasts of revenue improvements and cost containment for a number of business plan actions.

Amtrak should, as part of its normal strategic and annual business planning processes, identify risks of not achieving its business plan objectives along with opportunities to exceed its business plan objectives. Once the risks and opportunities have been identified, Amtrak should develop, as part of its normal business planning processes, plans of corrective action, which are approved by its management and Board as part of the overall business plan, and which Amtrak's management will be ready to implement without further Board approval if risks of not achieving its business plan objectives are realized.

Annual Cost Savings Goals

Based on the Council's regional outreach meetings, as well as direct communications with state departments of transportation, Amtrak risks losing a significant amount of commuter and subsidized Intercity passenger business unless it is able to get its unit cost structure more competitive with private sector companies. Market forces evident in Boston (Amtrak's loss of the Massachusetts Bay Transit Authority (MBTA) equipment maintenance contract) and the Midwest (where fixed price contracts are being discussed with Amtrak) are indicative of overall resistance to increasing Amtrak charges to the states and local commuter authorities for passenger rail services provided by Amtrak. Amtrak management has to act more like a private, for-profit corporation and less like a government-owned agency providing rail service on a cost-plus basis, if Amtrak is to participate in the anticipated increase in passenger rail service along developing high speed corridors.

Most corporations in the United States in recent years, in response to market place demands for lower unit costs, have set and achieved annual corporate objectives of improving productivity by some minimal amounts not tied to specific capital expenditures, typically in the range of 3 to 5 percent annually.¹² While goals of 3 to 5 percent annually may seem small, if applied year after year over several years, they will lead to significant productivity gains. While these overall corporate annual productivity goals are often set for the corporation, the specific actions to achieve the productivity goals can be identified and taken on a decentralized, location-by-location basis. As part of Amtrak's program to achieve the financial performance goals established under ARAA, the Council believes that Amtrak similarly needs to set overall productivity goals from unspecified investments and business actions, and to then provide incentives to local managers and/or strategic business units to develop and successfully implement specific cost savings projects which they have identified.

The Council therefore recommends that Amtrak's Board and management reassess the potential for annual savings from reductions in Amtrak's corporate overhead, Strategic Business Unit staff overhead, and staffing of stations and operating business units. As part of this assessment, Amtrak must establish a clear process for benchmarking the size of Amtrak's corporate overhead compared to the corporation's overall business volume, and implement a plan to meet these benchmarks.

Minimum Business Plan Objectives

Amtrak's Strategic Business Plan should identify readily measurable, key business plan objectives, including service objectives, operating objectives and financial objectives, for each year of its five-year Strategic Business Plans. The use of such objectives, called Minimum Business Plan Objectives (MBPOs), is essential for Amtrak to operate "without federal operating grant funds appropriated for its benefit" by FY2003, as required by law.

MBPOs, to be identified by Amtrak as part of its Strategic Business Plan, should include, but not be limited to, measures of productivity (such as labor cost per passenger mile or seat mile, or labor cost per dollar of passenger revenue, etc.); service quality (customer satisfaction indices, on time performance percentages, etc.); operating cost ratios (ratios of operating costs to passenger revenues, ratios of operating costs to total revenues, etc.); operations (total number of injuries, injuries per million train miles, etc.); and overall financial performance (Budget Results in absolute dollar terms, cash flow from operations, etc.). The MBPOs should, to the extent possible, be based

¹² In public news reports over the past several months, major successful corporations such as Boeing and IBM have announced ongoing and special cost reduction measures to offset lower-than-expected earnings in various sectors of their businesses. The Council believes that in Amtrak's current financial straits, similar measures are warranted.

on unit measures such as costs per revenue dollar; passenger revenues per Amtrak employee or per employee hour worked; employees per million seat miles or train mile; or employee compensation paid (or charged to operating expenses) per revenue dollar received.

Ideally, Amtrak should develop appropriate MBPOs, such as benchmarks of productivity, incorporate those objectives or benchmarks into its Five-Year Strategic Business Plan, and then report the corporation's actual financial and operating performance against those objectives in its next year's Strategic Business Plan.

H. AMTRAK'S RESPONSE TO THE COUNCIL'S RECOMMENDATIONS

National Railroad Passenger Corporation, 60 Massachusetts Avenue, N.E., Washington, DC 20002 Telephone (202) 906-3000



January 6, 2000

Mr. Gil Carmichael
Chair
Amtrak Reform Council
2209 Highway 45N, Suite F
Meridian, MS 39301

Dear Gil:

Since the Amtrak Reform Board came into existence, I believe that Amtrak has made tremendous strides to improve both our financial situation and the delivery of service to our guests. I know there will be many challenges ahead. So, as we begin a new year, I want you to know how much all of us on Amtrak's Board appreciate your personal commitment to assisting Amtrak and your strong and effective advocacy of rail passenger development. You have been one of the most focused and effective spokesmen for passenger rail. All of us on the Board thank you for your dedication, and we look forward to working with you in the new year.

I have reflected on the recommendations you and the Amtrak Reform Council offered us in your November 12 letter to me. I appreciate the time and consideration the Council members and your staff have given to developing these ideas, and I have instructed the management of Amtrak to review these recommendations. I understand that some of them will be included in our Business Plan. In addition, since your letter was discussed at our December Board meeting, I wanted to give you some preliminary reactions from that discussion.

With regard to your first recommendation, we also believe that the mail and express business is very promising. We agree with your recommendation that we should continue to pursue all profitable opportunities to generate additional mail and express business and to procure the necessary equipment and staff expertise in this area. Your recommendation, as well as the work we have already done in this area, will be included in our Business Plan.

With regard to creating a separate business unit for mail and express, we have considered that option in the past, but believe that for the time being it is best left as part of Amtrak Intercity where most of that business is centered. We intend to revisit the structure of our mail and express operation and make whatever management changes are needed to generate the best possible revenue return from this growing line of business. We are also working on a comprehensive accounting system designed to isolate profit and loss results, as well as the costs attributed to mail and express. We appreciate your suggestions and will continue to keep the Council informed as we develop the mail and express business.

AN EQUAL OPPORTUNITY EMPLOYER

Mr. Gil Carmichael
January 6, 1999
Page Two

With regard to creating a separate Northeast Corridor fixed plant, I am well aware of the ARC's interest in looking at how we integrate our capital/infrastructure needs with those of our train operations in the NEC. As I believe Stan Bagley indicated to you during his presentation to the ARC last spring, it is important that the capital allocation and operating functions be closely integrated and managed. The business unit concept has worked well for us in the NEC. Decisions with respect to the operations of our trains and improvements to our infrastructure are addressed and managed by the head of the business unit who is responsible for the allocation of time and resources to these functions.

Amtrak, with the assistance of the other commuter users of the Corridor, has begun to identify the short and long-term capital and infrastructure needs of the NEC, which could be funded either by Amtrak or through a partnership with the other users. For example, we are in the process of finalizing the report on southend needs of the corridor, which will examine the steps essential to improve reliability and modernize the corridor during the first part of this new century. As you know, the Northeast Corridor is a unique part of our nation's transportation system, and while Amtrak utilizes the entire Northeast Corridor, we share the corridor with other users. However, we are the one entity that in a sense holds this vital artery together. For instance, we are the only user of the corridor authorized to operate at speeds in excess of 110 MPH. Therefore, any discussion which could lead to the separation of the corridor's capital plant from train operations needs to consider the delicate balance that exists among all users, including the movement of freight. The arrangement that was brokered in 1976 when Amtrak took over the operation of the Corridor from Conrail, has worked reasonably well. While I realize you have offered the separate "fixed plant" concept more than as a recommendation, this is a subject of critical importance to Amtrak and the other users of the corridor. Concepts about changing the current structure of the NEC need to be thoroughly discussed by everyone concerned, and all ramifications must be understood.

With regard to your third recommendation of including "plans of corrective action" in our Strategic Business Plan, I want you to know that we have looked at the possibility that particular aspects of the plan might not be realized in the time projected, and we have developed contingency plans. As you know, with any business plan, there needs to be a high degree of adaptability to allow for problems or opportunities that can not be foreseen. I believe our business plan process reflects these contingencies. While you have expressed concern about the loss of revenue for Acela, we will be able to address the shortfalls resulting from this delay. In addition to our plans to meet the short-term budget impact, we have pressed the manufacturing consortium to maintain a production

Mr. Gil Carmichael
January 6, 1999
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schedule that delivers trainsets to us as quickly as possible. That said, we obviously welcome ideas from the Council to strengthen our business plan. The annual increases in ridership and revenue, as well as the recent announcement from Moody's raising our credit rating are indicators that our planning to date is paying off.

Your recommendations on annual cost savings goals are worthwhile. As part of our planning process, we have identified areas where we can reduce overhead costs. These targets will move around a bit this year as we restructure and add to Corporate functions previously funded by the SBUs. However, on an annualized basis reflecting FY98, FY99, FY00, Amtrak has saved \$30 million. We will be happy to discuss this subject in more detail with your staff as part of the ongoing discussions.

Your final recommendation underscores what I know you and the ARC have been focused on, namely, establishing effective benchmarking criteria for Amtrak. Frankly, there is no single way to easily benchmark this company. We are the only national provider of intercity service so aspects of our business are unique to what we do. However, we do have a variety of measures which we use to chart our performance and which are used by our oversight committees in Congress and by our creditors in their assessments of Amtrak. We have provided the ARC staff with several examples of benchmarking studies we have done in the recent past or what we intend to do on a regular basis. We agree that we need to explore this subject in more detail with your staff. I think we can work together productively in this area to develop some additional measures.

I regret that our conflicting schedules did not permit us to have an opportunity to meet around the time of our December Board meeting. I still believe it would be helpful for us to have a discussion around some of the larger issues affecting ARC and Amtrak early in 2000. As you know, Amtrak management has conducted a series of briefings with your staff, which I understand were productive. I know that George Warrington and a group of senior managers met with Tom Till, Mike Mates, and Ken Kolson on December 17 to discuss a number of issues between our respective organizations. Following that meeting, Mike Mates spent part of the following Monday meeting with senior officials in our Claims Department to discuss our FELA program. The next day, Joe Bress, Vice President of Labor, met with Tom, Mike, and Ken to review the status of our labor relations.

We view these discussions and meetings with your staff as helpful, but I want you to know that I have concerns about some of the issues the ARC has raised. George voiced a number of these concerns during his December 17 meeting with your staff. I would like to touch on a few of those issues now and get into more detail when we meet

Mr. Gil Carmichael
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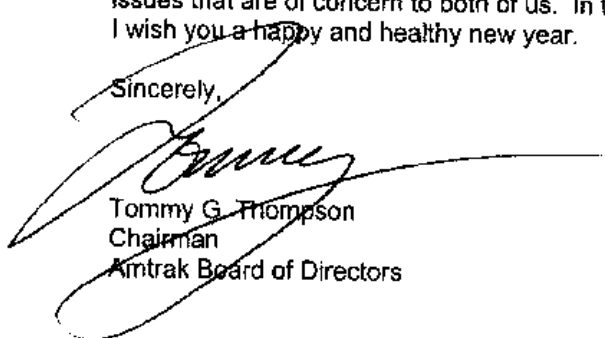
Some people in the finance community have expressed concern about groups who claim to be "aligned" with the ARC and who have stated that the Council is proceeding down a path toward privatization. Frankly, I have never understood what the word "privatization" means when it is applied to Amtrak. We have implemented the reforms outlined in the Amtrak Reform and Accountability Act. We are diligently working to achieve our mandates of operating self-sufficiency while maintaining a national system. At his meeting with Tom Till, George was assured that the Council has not aligned itself with any group nor is it proposing privatization. I know that in your meetings you have made it a point to state that the Council has no firm plan about the future of Amtrak. However, a few members of the Council have been quoted in the newspaper in ways that have been harmful to us. While I realize that you cannot control what members of the Council say publicly, I do believe that these comments are not in the best interest of our respective organizations. I do believe Council Members should be asked to indicate that they are speaking as individuals, not officially on behalf of the ARC. I hope that in the coming year you would do all you can to allay fears, especially among our state partners and our bankers, that the Council is moving toward a "privatization plan" for Amtrak.

With regard to our labor relations, we have bent over backwards to provide the Council with information about our relationships and agreements with organized labor groups. We have spent considerable time providing your staff with written answers to their questions and have provided further elaboration about a variety of issues in our meetings. I believe the information we provided goes a long way to respond to the issues generated by the Council's staff particularly in the area of labor relations. I believe that we have negotiated strong agreements, which will generate the savings we predicted. In fact, we feel these agreements reflect some of the best in the industry. The strength of our position in these negotiations is reflected in part by the fact that our employees' compensation continues to be less than what their peers on both the major freight railroads and most commuter railroads. The Council's staff has asked us on several occasions for our plans and the specific issues that we intend to pursue in our coming round of negotiations. The Board and management of the company are extremely wary of discussing with anyone outside of Amtrak our plans for these negotiations. We do not want to jeopardize our ability to get the best possible agreements for the company. While I recognize that the ARC members and the staff have signed confidentiality agreements, this is a sensitive matter that I believe we need to discuss personally.

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Gil, I appreciate your hard work and hope we can meet soon to further discuss the issues that are of concern to both of us. In the meantime, on behalf of the entire Board, I wish you a happy and healthy new year.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to read "Tommy". The signature is written over the typed name and title.

Tommy G. Thompson
Chairman
Amtrak Board of Directors

I. MINORITY VIEWS TO THE COUNCIL'S ANNUAL REPORT

**Filed on the First Annual Report by the Labor Member of the Council
and by the Representative of the Secretary of Transportation**

MINORITY VIEW OF LABOR REPRESENTATIVE CLARENCE V. MONIN

On behalf of myself and the Rail Labor Division of the Transportation Trades Department, AFL-CIO, whose 13 rail union affiliates collectively represent some 20,000 Amtrak workers, I am extremely disappointed in the First Annual Report of the Amtrak Reform Council (ARC): A Preliminary Assessment of Amtrak.

We believe the Report reflects an aggressive anti-Amtrak and pro-privatization agenda; that it is replete with statements which are misleading, inaccurate and unsubstantiated; and that it is the culmination of the very fiscal irresponsibility that it claims to address.

Background

Rail labor believes that Amtrak is an integral part of our transportation network.

Amtrak was created nearly 30 years ago by the Rail Passenger Service Act with a goal of establishing a modern, efficient intercity passenger railroad that can provide a truly national network of passenger transportation. The National Railroad Passenger Corporation (Amtrak) was charged with operating and revitalizing intercity passenger rail service and integrating such service into our national transportation system.

Amtrak currently serves 44 states and the District of Columbia, providing service to 20 million passengers. In the Northeast Corridor alone, which connects Washington, D.C., to Boston, Amtrak carries more than 11 million intercity passengers and 100 million commuters. Today, Amtrak is a critical component of our nation's intermodal transportation system. It

provides an indispensable, affordable, environmentally and ecologically friendly, energy-efficient mode of travel for passengers across the country. In fact, for thousands of Americans, Amtrak provides the only affordable alternative to the automobile and it offers vital transportation to the elderly and disabled.

While Amtrak continues to operate at a loss, as reported in the DOT Inspector General's assessment from last July, ridership is up and Amtrak is continuing to advance its strategic business plan, which includes the anticipated introduction of modern train sets as well as capturing new revenue opportunities. Clearly, Amtrak is making significant progress in meeting its financial goals and securing a strong future for a national passenger rail network.

For too long, Amtrak has had to struggle with inadequate resources, focusing on survival instead of improvement. Rather than investing in the future, Amtrak has had to delay maintenance, defer purchases for trains and equipment, eliminate jobs, cut wages and tolerate declines in quality of service. For the employees of Amtrak this has meant fewer jobs, in a less desirable environment, with wages well below those paid to workers in the commuter and freight sectors. However, Amtrak employees have remained dedicated to the promise of a brighter future.

Improvements in Amtrak -- indeed, the continued viability of Amtrak itself -- would not be possible, but for the consistent dedication of Amtrak's 20,000 employees. Year after year, Amtrak employees have taken the brunt of Amtrak's financial hardships. Between 1981 and 1998, Amtrak workers earned less than the national rate in order to help Amtrak through a difficult financial crisis. As a result of the sacrifices Amtrak workers have made in the form of real wage and benefit concessions, and changes in work rules, Amtrak now captures the largest

percentage revenue from the fare box of any intercity passenger rail service in the world. Yet, Amtrak workers remain the lowest paid unionized workers in the industry.

Biased Attitude

While the mission of the ARC was very specifically and narrowly defined by Congress in the Amtrak Reform and Accountability Act of 1997 (ARAA), the ARC has carved out an ideological agenda for itself which we believe extends far beyond what Congress intended.

While the ARAA and legislative history make it clear that the ARC was created as a forum to provide objective assessment of Amtrak's financial performance, the ARC has adopted an aggressive anti-Amtrak and pro-privatization agenda. At least two members of the Council have written extensively about the need to liquidate Amtrak and to end all Federal funding for America's railroad. In a November 14, 1998, article entitled "An Amtrak Watchword -- Reform," ARC Member Joseph Vranich stated: "... we should learn from many countries that denationalize rail services through privatization, franchising and development to regional and state governments. I've argued for a 'thoughtful, deliberate careful' Amtrak phase out." Likewise, in an April 28, 1998, presentation entitled "All Aboard? A Private Solution for Amtrak," Wendell Cox, also an ARC member, wrote the following: "I have no doubt that the Amtrak service could be operated commercially if it were provided by an entrepreneurial company driven by a commitment to serve customers and operated with a market rate labor contract."

Coupled with this is the fact that the chairman of the Council himself is a privatizer and the ARC Executive Director previously worked in Europe, where he spent a number of years promoting privatization of rail lines. Unfortunately this mind set also permeates the Annual Report. Note the following examples:

- In listing the criteria and guidelines that the Council used in evaluating Amtrak (p. x of the Report¹), absent is the key congressional finding that "intercity rail passenger service is an essential component of a national intermodal passenger transportation system" (sec. 2 of the ARAA) and the importance of "a national passenger rail system which provides access to all regions of the country and this together with existing and emerging rail passenger corridors" (sec. 203 (g)(2)(a));
- In support of privatization, note the following examples:
 - "... some have entered into partnerships ... that are proving attractive to the market and affordable from the standpoint of the public expenditure ..." (p. 1);
 - "The most notable accomplishment of the intercity rail passenger service since 1970 is that it has simply managed to survive ..." (p. 2);
 - "... the question is, which, if any ... functions, should be done within the same corporation or corporations that carry out passenger train operations." (p. 4);
 - "... the [ARC delegation to the World Rail Conference] also held meetings with several of the government agencies and private companies of the newly restructured rail industry in Britain (p. xi); and
 - "... permit the introduction of competition into the provision of intercity and rail passenger service" (p. 30).

Conversely, absent from the Report are statements that recognize advancements made by Amtrak; namely, that:

- Amtrak provides a quality transportation product in the form of a clean, comfortable and on-time service;
- Amtrak has already been forced to significantly cut back its rail passenger system due to cash shortages;
- Amtrak is committed to operate in a businesslike manner in order to adjust quickly to meet demand and changing customer needs;
- Amtrak's management and employees are dedicated to providing the high-quality service that Amtrak's customers deserve;

¹ Unless otherwise noted, all references to the Annual Report are to the January 14, 1999, working draft. This draft and the December 16, 1999, working draft were the only versions of the Report that rail labor was able to obtain for purpose of review. The ARC did not provide rail labor with any of the drafts of the Report, even though a rail labor representative serves on the Council.

- Amtrak's management is committed to ensuring that all capital investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;
- Amtrak's management and its employees are dedicated to using the collective bargaining process to reach equitable agreements that provide a sound basis for improved customer service and that contribute to the long-term viability of the corporation;
- States, local governments, and private parties continue to support intercity rail passenger service as an essential component of the intermodal transportation network in their States; and
- Amtrak provides excellent service to its customers, is using its federal investment wisely and efficiently, and is making significant and measurable progress in improving the financial performance of intercity rail passenger service.

The law that created the ARC is the Amtrak REFORM (emphasis added) Act, not the Amtrak Termination Act. Yet, instead of making positive recommendations to improve Amtrak and instead of reaching out to others to help partner a solution, the ARC and this Report demonstrate a definite bias in favor of the elimination of Amtrak.

Misleading, Inaccurate and Unsubstantiated Statements

Note the following examples:

- "... the Council ... began to carry out its mandate through a broad program of research and ... analysis by the ARC staff, which has worked closely with ... the railway labor organizations" (pp. x-xi). Nothing could be further from the truth. The facts are that the ARC has deliberately distanced itself from rail labor; not making material available to it when requested; not meeting with rail labor staff when requested; not allowing input from rail labor; and not permitting rail labor's representative on the ARC to discuss with labor the very issues affecting it;
- The performance factors noted on p. 8 are not intended by the law (sec. 203(g)) to be all-inclusive;
- In listing the reports requested by the ARAA, (p. 17), the sec. 203(g) requirement is part of and not in addition to the sec. 203(h) reporting requirement;

A section on labor-management relations was included in the Report, at least through the January 14th draft (pp. v-vi, 27-29). This section reportedly has been deleted from the final report; however, rail labor is compelled to address a number of troubling points that were raised:

- The background section on the evolution of rail labor (pp. v-vi, 27-28) is sorely lacking. It fails to tell the whole story. It is over-simplified and represents more of a commentary than anything else. As such, it begs the question as to why this section should even have been considered;
- The statement is made that "Amtrak's operations ... have been insulated from the competitive marketplace" (p. 28), with a footnote reference to the recent bid for the Massachusetts Bay Transportation Authority's (MBTA) rail commuter operations where "Amtrak ... was the highest of four bidders for the contract, with a proposed price more than 60 percent higher than the winning bidder." Clearly, to the innocent reader such a statement leaves the impression that Amtrak cannot compete in the marketplace. What is not mentioned in the Report is that the MBTA situation is currently under legal challenge; that assertions have been made that the bidding process was unfair and perhaps even rigged; that the U.S. Departments of Transportation and Labor have challenged the MBTA situation as possibly being in violation of Federal law; and that the current chairman of the ARC, Gil Carmichael, has a vested interest in the MBTA rail commuter contract now being awarded to another bidder; and
- The claims that "[s]ome have argued that many of the difficulties of railroad labor-management relations could be ascribed as a complex set of costly laws that govern labor-management bargaining, claims by employees for injuries, unemployment compensation, and retirement benefits," and that this "acts to prevent rail workers from realizing higher salaries" (p. 28) is unsubstantiated by a single fact and, hence, irrelevant to the Council's conclusions.²

Fiscal Irresponsibility

The Report notes various meetings held throughout the United States as well as a trip to London (p. xi). What the ARC has learned from these sessions is unclear. Certainly, nothing is included in the Report that references any of the testimony or discussion from these sessions.

² In the December 16, 1999, working draft, ARC also proposed a finding that "the high level of FELA claims by railroad employees for work-related injuries is indicative of a poor state of labor-management relations." (p. 27). The truth of the matter is that if the high level of claims is indicative of anything, it is the failure on the part of the carrier to adequately address safety in the workplace. It's not about relations, but about the duty of the management in general to ensure a safe working environment. Moreover, ARC's proposed finding is contradicted by the Federal Railroad Administration's view that "Amtrak's payout experience under the Federal Employers' Liability Act ... is the best in the industry."

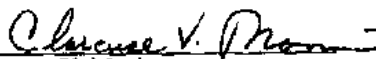
The ARC's web page contains no information about the substance of the meetings. Testimonies and meeting minutes are not available to the public.

What is clear about these meetings, however, is that they must have cost the American taxpayers thousands of dollars. To argue that Amtrak's fiscal operations "must [be] conduct[ed] ... with efficiency" (p. x), while at the same time spending thousands of dollars on these trips, seems to be at the very least hypocritical, especially given the fact that Congress has expressed concern about the level of ARC funding, as demonstrated by the Andrews' amendment last session (which -- by an overwhelming bipartisan vote -- cut ARC funding in the DOT appropriations bill to the previous year's amount).

Conclusion

Since its inception, elements of the ARC have pursued an anti-Amtrak agenda that promises to derail the efforts of Amtrak and its employees to build a first-class passenger railroad. This Report furthers that agenda. Instead of offering sensible proposals and working to secure a strong future for Amtrak and its workers, it conveys an unnecessary pessimism about Amtrak's future, and sets the stage for the undermining and ultimate dismantling of our national railroad passenger rail carrier. The goal should be to make Amtrak the best possible intercity rail passenger service it can be. This Report sorely misses that goal ... rail labor remains firmly committed to it!

Respectfully submitted,


Clarence V. Monin
Labor Representative

January 20, 2000



U.S. Department
of Transportation
**Federal Railroad
Administration**

Office of the Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 20 2000

The Honorable Gilbert E. Carmichael
Chairman
Amtrak Reform Council
400 Seventh Street, S.W., Room 7105
Washington, D.C. 20590

Dear Chairman Carmichael:

The preparation of the Council's annual report to Congress has been a difficult undertaking for the Council and its staff. The most recent version of the report that I have seen shows some improvement over the original staff draft that the Council members were provided. However, significant issues remain unresolved. As the representative of Secretary Slater on the Council, I cannot support the report's transmittal to Congress.

I am troubled by the report's treatment in Chapter III of certain issues related to the definition of Amtrak's statutory mandate under the Amtrak Reform and Accountability Act of 1997 (ARAA). This Administration initiated the goal of Amtrak operating self sufficiency and participated fully throughout the legislative process that led to inclusion of this goal in the ARAA. Because of this, the Department of Transportation is unique among the members of the Council in being able to speak directly to the intent of this provision of the Act. The staff-suggested consideration of the inclusion of non-cash expenses and certain capital expenses in determining whether Amtrak achieves its statutory goal of "operating without Federal operating grant funds appropriated for its benefit" is inconsistent with the intent of the Administration and the Congress.

Perhaps the most vexing problem associated with this report has been the arbitrary deadline established for its transmittal to Congress. I appreciate your personal commitment to a timely completion of this report. However, as you will recall, on December 7, 1999, I wrote expressing my concerns over the proposed schedule for the report and my opinion that the proposed schedule would not allow for thoughtful consideration of the report by members of the Council. Unfortunately, this proved to be prophetic. During my discussions with other Council members yesterday, I found we were working from three different drafts of the report. The most recent draft that I have seen is dated January 14, 2000; but, I understand that changes have been made to that draft which the Council members have not seen. Some of these changes are no doubt for the better and I understand that some specific changes requested by me have been incorporated. However, I believe that the issues are too significant for the Council to approve this report without seeing it in its final form and discussing these issues face-to-face in an open meeting as required by Section 203(e) of the ARAA.

2.

I am also troubled by the limited time that Amtrak has had to review the draft document and that the Council has not had an opportunity to review and discuss Amtrak's concerns in open session. Your decision to allow Amtrak an opportunity to review the report was a sound one that had the support of the Council. Recognizing the importance of these issues to Amtrak and the mission of the Council, the decision as to the validity of Amtrak's concerns should not be left solely to the Council staff but should be addressed by the Council members themselves.

Gil, your job as chairman of the Council has not been an easy one and I appreciate your intense interest in passenger rail service. I know you want Amtrak to succeed as much as I do. But I believe that the report as it now stands would work counter to our shared goal.

Sincerely,

A handwritten signature in black ink that reads "Jolene M. Molitoris". The signature is written in a cursive, flowing style.

Jolene M. Molitoris
Administrator



Donald R. Sweitzer
Senior Vice President
Government Relations
GTECH Corporation

55 Technology Way
West Greenwich, Rhode Island
02817 USA
Telephone 401 392-7780
Fax 401 382-0279

January 21, 2000

Mr. Thomas A. Till, Executive Director
Amtrak Reform Council
400 Seventh Street, SW, Room 7105
Washington, DC 20590

Dear Tom:

I have reviewed the draft recommendations of the Amtrak Reform Council. I want to express my views to the Council before the document is finalized and released.

First, let me state that the draft recommendations do not reflect my long-held belief about the vitally important value of Amtrak as our national passenger rail system and the indispensable role that Amtrak's more than 20,000 employees have played throughout the carrier's history. Second, it is puzzling to me why Council Members have chosen to make scapegoats out of Amtrak's employees instead of enlisting them -- as Amtrak management has chosen to do -- as part of the solution to the challenges facing Amtrak.

Finally, I am disappointed with the apparent bias embedded in the report toward dismantling the current AMTRAK structure and replacing it with a risky privatization model. As you may know, I was part of a group of people over 20 years ago who fought for the creation of AMTRAK. The naysayers said we could not run a viable rail passenger service in this country. While there have been many difficulties along the way and many remain before us, I do not advocate throwing the baby out with the bathwater.

I intend to join with Labor Member Clarence Monin and sign on to a dissenting view which I formally ask be attached to whatever report the Council ultimately releases. Again, let me state for the record that I do not approve the draft recommendation and ask that the record reflect my dissenting vote. Please give me a call if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. R. Sweitzer", with a stylized flourish at the end.

Donald R. Sweitzer

cc: The Honorable Rodney Slater
The Honorable Mort Downey
The Honorable Jolene Molitoris
Members, Amtrak Reform Council

J. CONCURRING VIEW WITH THE MAJORITY

☆ ☆ ☆ **AMTRAK REFORM COUNCIL** ☆ ☆ ☆

THE COUNCIL

Gilbert E. Carmichael
Chairman

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Vice Chairman

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Christopher K. Gleason

S. Lee Kling

Clarence V. Monin

Hon. John O. Norquist

Hon. Rodney Slater

Donald R. Sweitzer

Joseph Vranich

EXECUTIVE DIRECTOR

Thomas A. Till

January 20, 2000

Mr. Gil Carmichael
Chairman
Amtrak Reform Council
400 Seventh Street, SW
Washington, D.C. 20590

Dear Chairman Carmichael:

In supporting the Council's annual report to Congress, I believe that the future of Amtrak is based on its ability to respond to the marketplace and meet the needs of its customers.

I believe Amtrak deserves a fresh start. It should be freed from its past debt and bureaucratic inefficiency. Amtrak's supporters and critics should recognize that all modes of transportation are heavily subsidized by taxpayers in one form or another. I would support a new significant infusion of funding for Amtrak, if such funding were tied to real reforms.

Amtrak needs to shift its focus to the outcomes its customers demand. Given a fresh start and a fair chance to compete in the market, I believe it can succeed.

Sincerely,

John O. Norquist
Mayor of Milwaukee

JM-ARC, Room 7105
400 Seventh Street, SW

Washington, DC 20590



*The ARC is an independent federal commission established under the
Amtrak Reform and Accountability Act of 1997 (P. L. 105-134)*

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S. LEE KLING

1401 SOUTH BRENTWOOD BOULEVARD
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FAX (314) 968-1235

January 22, 2000

The Honorable Gilbert E. Carmichael
Chairman
Amtrak Reform Council
400 Seventh S7 S.W. Room 7105
Washington, D.C. 20590

Dear Chairman Carmichael:

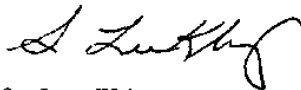
The completion of this report has been quite tedious, required many changes, additions and eliminations and of course caused various degrees of disagreements among the commissioners.

I have voted in favor of this report even though I find various parts in which I'm not in total agreement. But I voted with the understanding that this report as quoted in the letter to the Honorable Albert Gore, Jr., and the Honorable Dennis Hastert states that it does not reach a conclusion or make any recommendations about Amtrak's long-term future (see paragraph 5 of the letter). I believe it is a report however that will start the dialogue.

Let me here state that I am a firm believer in the need for an "Amtrak" and feel that Amtrak itself has taken many positive steps. Of course, much more needs to be done if it is to be financially independent.

I have read Labor's reference to partiality by some members of the commission particularly as respects privatization. They may or may not be entirely true. However, as respects my own view, I have a totally open mind to all issues that we are required to deal with, and I feel completely independent in my decision making as to the direction that Amtrak should take, and I intend to stay in this position and make recommendations that best suit passenger rail, Amtrak and the requirements set by Congress.

Sincerely,



S. Lee Kling
Council Member